



# The Attorney General of Texas

December 31, 1982

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Mr. Robert B. Baldwin III  
Chairman  
Texas State University System  
Board of Regents  
505 Sam Houston Building  
Austin, Texas 78701

Opinion No. MW-594

Re: Whether institutions of higher education may spend ad valorem tax funds received under article VII, section 17 for construction projects without coordinating board approval

Dear Mr. Baldwin:

Your letter requesting an Attorney General Opinion states as follows:

Article VII, section 17 of the Texas Constitution, until its recent repeal, provided for a state ad valorem tax 'for the purpose of creating a special fund for the purpose of acquiring, constructing and initially equipping buildings or other permanent improvements at the designated institutions of higher learning...' The constitutional amendment which repealed article VII, section 17 provided that ad valorem tax receipts which had been distributed to eligible universities 'may be expended for the purposes provided under prior law or for repair and renovation of existing permanent improvements.' A number of universities have received ad valorem tax monies which they have not yet expended.

Education Code section 61.058(8) requires institutions of higher education to receive coordinating board approval for 'all new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education.' We respectfully ask whether a project proposed by a university must be approved by the coordinating board if the project is to be

financed in its entirety or partially by ad valorem tax funds.

Article VII, section 17 was repealed at the November 2, 1982 election. Article VIII, section 1-e of the Texas Constitution was amended at the same election to provide as follows:

Sec. 1-e. No State ad valorem taxes shall be levied upon any property within this State.

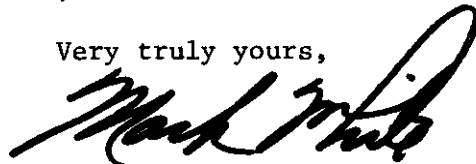
2. All receipts from previously authorized State ad valorem taxes that are collected on or after the effective date of the 1982 amendment to this section shall be deposited to the credit of the general fund of the county collecting the taxes and may be expended for county purposes. Receipts from taxes collected before that date shall be distributed by the legislature among institutions eligible to receive distributions under prior law. Those receipts and receipts distributed under prior law may be expended for the purposes provided under prior law or for repair and renovation of existing permanent improvements.

The recently enacted amendment authorizes expenditures pursuant to prior law. Since Article VII, section 17 was "self enacting", Coordinating Board approval was not required for the construction of new buildings financed entirely or principally by constitutional tax funds. We therefore conclude that construction financed by funds distributed prior to the enactment of Article VIII, section 1-e, may be undertaken without prior Coordinating Board approval.

S U M M A R Y

Coordinating Board approval is not required for construction financed by funds distributed prior to adoption of Article VII, section 1-e.

Very truly yours,



MARK WHITE  
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