



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

Georgie S. L. Mann  
~~XXXXXXXXXXXXXXXXXXXX~~

Honorable David Cole  
County Auditor  
Stephens County  
Breckenridge, Texas

Dear Sir:

Opinion No. 0-1347  
Re: Applicability of Article 720,  
Chapter 2, Title 22, Revised  
Civil Statutes, 1925, to  
serial road bonds of a  
county.

We have your letter of August 26, in which you ask  
the following question:

"Is Article 720, chapter 2, Title 22, of the  
Revised Civil Statutes of 1925, applicable to serial  
road bonds of a county?"

In answer to your question we call your attention to  
the fact that Title 22 covers generally the subject of bonds  
and the authority of counties and cities to issue same. The  
classifications under this title cover some nine subjects, and  
Chapter 1 thereof sets out the general provisions and regula-  
tions governing the issuance of bonds by a county or an in-  
corporated city or town. Under this chapter we find Article  
706, which states -- "Bonds may be issued to mature serially  
within any given number of years not to exceed forty within  
the discretion of the governing body issuing the same." In  
the case styled *Boystun vs. Rockwall County*, 23 S. W. 541,  
the Court of Civil Appeals held this article to be mandatory,  
and it is our opinion that unless otherwise provided within  
the statutes, this law must govern the maturity dates of any  
issue of bonds.

Chapter 2, of Title 22, details the types of bonds that  
may be issued by a county. Article 718 specifically authorizes  
a county to issue bonds for the following purposes:

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1. To erect a county courthouse and jail or either.

2. To purchase suitable sites within the county and construct buildings thereon to provide homes or schools for dependent and delinquent boys and girls or for either.

3. To establish county poor houses and farms in the county.

4. To purchase and construct bridges for public purposes within the county or across a stream that constitutes the boundary line of the county.

5. To improve and maintain the public roads in the county.

Article 720 of Chapter 2 provides:

"All bonds issued under this chapter shall run not exceeding forty years, and may be redeemable at the pleasure of the county at any time after five years after the issuance of the bonds, or after any period not exceeding ten years, which may be fixed by the commissioners' court."

This provision is substantially the same as Article 706, above quoted, merely adding thereto an optional provision for the redemption of the bonds at a date earlier than the maturity date. Any bonds issued under this chapter for road purposes would necessarily be issued against the road and bridge tax of fifteen cents on the one hundred dollars' valuation provided for in the Constitution, Section 9, Article 8, and which tax is re-enacted in Article 722 of Chapter 2, Title 22.

Insofar as your letter does not state whether the road bonds of your county were issued as county-wide obligations, or pursuant to Section 52, Article 3 of the Constitution, we feel that we must point out Article 752i of Chapter 3, Title 22, which reads as follows:

"Such bonds shall mature not later than thirty years from their date, except as herein otherwise provided; they shall be issued in such denominations

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and payable at such time or times as may be deemed most expedient by the commissioners; court and shall bear interest not to exceed five and one-half per cent per annum. The general laws relative to county bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval and certification, the registration, the sale and payment of the bonds provided for in this Act."

It will be noted that this article specifically states that the general laws relative to county bonds shall apply to the issuance of such bonds when such laws are not in conflict with the provisions of this Act. Article 752a of Chapter 3, Title 22, contemplates the issuance of bonds for road purposes as authorized by Section 52 of Article 3 of the Constitution of this State, and the articles subsequent to Article 752a detail the manner in which bonds may be issued by the county for road purposes, and insofar as the general laws relative to county bonds are not in conflict with the provisions of this chapter, the general laws shall apply.

You are, therefore, advised that in our opinion Article 720, Chapter 2, Title 22, is applicable to serial road bonds of a county when issued under Chapter 2, Title 22, and against the constitutional road and bridge tax provided in Section 9, article 8 of the Constitution but in the event the bonds are issued under Chapter 3, Title 22, pursuant to Section 52, Article 3 of the Constitution, Article 7521 would be applicable to the ultimate maturity dates of such bond issue.

Trusting that this satisfactorily answers your question, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (s) Clarence E. Crowe  
Assistant

CEC:S:fo  
APPROVED SEP. 14, 1939  
(s) Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE  
BY (S) EWC, CHAIRMAN