



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable G. C. Olsen
County Attorney
Winkler County
Kermit, Texas

Dear Sir:

Opinion No. 0-6824

Re: Whether a petition to the Commissioners' Court of Winkler County requesting the establishment of two county hospitals from the proceeds of one bond election is legal; if not, will it prevent an election on a second petition for the establishment of one hospital?

Your request for our opinion on the above questions reads as follows:

"To the Honorable J. B. Salmon, County Judge of Winkler County, Texas, there has been presented what is purported to be a petition reading as follows:

"A PETITION

TO THE HONORABLE COMMISSIONERS COURT OF WINKLER COUNTY,
TEXAS:

We, the undersigned property owners of Winkler County, Texas, do hereby petition and pray that an election be ordered in and throughout said Winkler County, submitting to the qualified voters of said County, the proposition for the issuance of bonds of said county in the sum of One Hundred Fifty Thousand (\$150,000) Dollars for the purpose of acquiring sites, construction, and equipment of two hospital units in Winkler County; said sums to be allocated as follows: \$100,000 for the building and equipping of a modern hospital to be located within the city limits of Kermit, Texas, and \$50,000 for the building and equipping of a modern

hospital to be located within the city limits of Wink, Texas; and whether or not an ad valorem tax shall be levied on all taxable property in said county for the purpose of paying the interest on said bonds and to provide a sinking fund for the redemption thereof at maturity.

"On the same day that the above purported petition was delivered to the County Judge of Winkler County, Texas, but at a later hour in that same day there was presented to the same said County Judge a petition praying for the calling of an election for the acquiring of a site, and the establishing, erection, construction, and equipping of a County Hospital in Winkler County, Texas; such hospital to be located in Kermit, Texas.

"The Commissioners' Court of Winkler County, Texas, has asked that I secure from you an opinion on the following:

- "1. Does the Commissioners' Court of Winkler County, Texas, have the authority to establish two (2) modern hospitals from funds, or proceeds of one bond election?
- "2. Is this purported petition as above set out a lawful petition since it asks for the doing of something not authorized by law?
- "3. If this purported petition is unlawful, can it be disregarded by the Commissioners' Court of Winkler County, Texas, and be declared by them to not be such a petition as would prevent such Commissioners' Court from acting upon the petition that was delivered later in that same day as the above set out purported petition was delivered?

"My opinion on this matter is as follows: taking the matter by 1, 2, and 3 above:

- "1. Under Article 4478, V. A. C. S., authority is given to Commissioners' Courts to establish a county hospital, and throughout that said Article the singular and never the plural is used. It is my opinion that the Commissioners' Court of Winkler County, Texas, could build only one hospital at this time, and thereafter under Article 4490 they could maintain more than one hospital.

- "2. This purported petition is not a lawful one since it is for the calling of an election for the doing of something that is not authorized by law to be done.
- "3. Since this purported petition is unlawful, it does not have to be regarded by the Commissioners Court of Winkler County, Texas, for any purpose, and it is not such a petition as would require twelve months to pass before the Commissioners Court could act upon the petition that was delivered to the County Judge of Winkler County, Texas, later on that same day as the above purported petition was delivered. Article 4478 states that 'qualified property tax paying voters' are the one to petition, and not 'property owners' as the above set out purported petition recites.

"According to the 1940 Federal Census, Winkler County had a population of 6,141.

"Due to the fact that Senate Bill 191 of the United States Congress probably will soon become a law, and Winkler County, Texas wants to be in a position to participate in the benefits of that Bill, I have been requested by the Commissioners Court of Winkler County, Texas to respectfully ask that you give this matter your preferred attention and let your opinion come forward as soon as possible.

"I have searched and failed to find any cases in point on the matters expressed in this letter."

The general rule relative to the proper interpretation of statutes is that the intention and meaning of the Legislature must be ascertained from the language of the statutes read as a whole. Title 71, Chapter 5, Articles 4478-4494a, Vernon's Annotated Civil Statutes, are the statutes giving power to the Commissioners' Court to establish a county hospital and to enlarge any existing hospitals. These statutes make provision for a "a county hospital," and all of said statutes that set out the power of the various parties authorized to build, equip and manage said hospital deal only with "a county hospital." The only provisions in any of said statutes that could be construed to mean more than "a county hospital" are Article 4493, which is applicable in counties which may have a city of more than 10,000 persons, and Article 4494, which authorizes two or more adjacent counties to join for the pur-

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poses of this law and erect one or more hospitals for their joint use, but neither of said provisions applies here. It is our opinion, therefore, that it was the intention of the Legislature to authorize only one county hospital in a county such as Winkler County where it is not sought to join with any other county for such purpose.

Accordingly, it is our opinion that the Commissioners' Court of Winkler County does not have the authority to establish two hospitals from the proceeds of a bond election under the facts stated. We do not think the purported petition for two county hospitals set out in your request is a lawful petition, since, under the facts stated, the Commissioners' Court has no authority to establish two county hospitals in Winkler County. We are also of the opinion that the petition for two county hospitals can be disregarded by the Commissioners' Court, or, in other words, it can be denied by the Court, and the second petition may be approved or rejected by the Court as the law and the facts may require.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By /s/ Jas. W. Bassett
Jas. W. Bassett
Assistant

JWB:LJ

APPROVED SEP 29 1945

/s/ Carlos C. Ashley

FIRST ASSISTANT
ATTORNEY GENERAL

THIS OPINION
CONSIDERED AND
APPROVED IN
LIMITED
CONFERENCE