



# THE ATTORNEY GENERAL OF TEXAS

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May 4, 1973

The Honorable David Finney, Chairman  
Committee on State Affairs  
House of Representatives  
P. O. Box 2910  
Austin, Texas 78767

Letter Advisory No. 27

Re: H. B. 261

Dear Representative Finney:

As chairman of the State Affairs Committee of the House of Representatives, you have requested our opinion concerning the constitutionality of House Bill No. 261, an Act designed to provide for cooperative purchasing through the State Board of Control for counties and other governmental subdivisions and also for the local governments to cooperate among themselves. You have not designated any particular area of concern.

The only fault we find readily with the Bill as presented to us has to do with its caption which is:

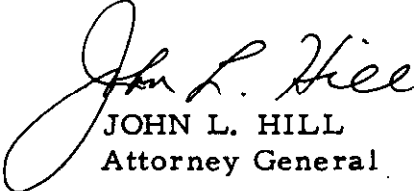
"AN ACT relating to a cooperative purchasing service through the State Board of Control for counties, home-rule cities, cities, villages, and towns organized under general law, special districts, school districts, junior college districts, and other legally constituted political subdivisions of the State or combinations of these; and declaring an emergency. "

We believe the caption is sufficient to cover the first portions of the Act having to do with cooperative purchasing through the State Board of Control by local governments. However, Section 6 of the Bill provides that, in addition to participation in state-local cooperative purchasing services, two or more local governments are authorized to establish joint cooperative purchasing programs. This subject is not covered by the caption and, were it enacted in this form, it would be void as to the subject of Section 6.

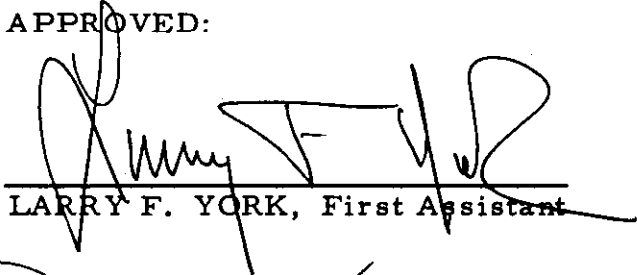
The Honorable David Finney, page 2 (L.A. 27)


It is our opinion therefore that House Bill No. 261 would be constitutional in its basic provisions, and that it would be constitutional in its entirety if the caption were amended to give notice of the subject matter of Section 6. Article 3, Section 35, Constitution of Texas; see Charles Hayman Construction Co. v. American Indemnity Co., 471 S. W.2d 564 (Tex. 1971).

Yours very truly,

  
JOHN L. HILL  
Attorney General

APPROVED:

  
LARRY F. YORK, First Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee