



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

March 5, 1963

Honorable Byron Tunnell  
Speaker  
House of Representatives  
Austin, Texas

Opinion No. C-25

Re: Construction of Section 56 of Article XVI of the Constitution of Texas.

Dear Mr. Tunnell:

Your request for an opinion on the above subject matter reads as follows:

"I hereby request an opinion from you concerning the constitutionality of House Bill No. 11. My particular question is, under Article 16, Section 56 of the Constitution is the legislature prohibited from authorizing expenditures of money for the purposes set forth in Article 16, Section 56 of the Constitution in any other manner than by advertising in periodicals having national circulation. Or, stated in another manner, may the legislature authorize the expenditure of money under Article 16, Section 56, by the use of radio, newspapers, television and other means deemed appropriate.

"Your earliest possible consideration of this important matter would be appreciated."

Section 56 of Article XVI of the Constitution provides as follows:

"The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial, educational,

marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having national circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; providing, however, that neither the name nor the picture of any living state official shall ever be used in any of said advertising; and providing that the Legislature may require that any sum of money appropriated hereunder shall be matched by an equal sum paid into the State Treasury from private sources before any of said money may be expended."

Section 56 of Article XVI, above quoted, was adopted at the General Election on November 4, 1958. In Attorney General's Opinion WW-833 (1960), it was held:

"It is to be noted that the Legislature was not directed to appropriate these funds from any specific source of revenue. To implement this new constitutional provision [Article XVI, Section 56, above quoted] the 56th Legislature passed S.B. 152 (Acts 1959, Regular Session, page 431, Chapter 193). Sec. 3(a) thereof is quoted on the first page of this opinion. This contains express authority to do the thing inquired about by Mr. Greer - the paying for this brochure out of highway funds - and we quote: 'The Texas Highway Department is authorized and empowered to pay . . . the cost of developing and publishing various material and the dissemination thereof . . . from highway revenues.'

" . . .

"It is the opinion of this office that the use of highway funds to pay for publishing and distribution of the brochure is in accordance with S.B. 152 above referred to and of Art. 16, Sec. 56 of the Constitution, is not prohibited by Art. 8, Sec. 7-a, nor by any other constitutional provision."

In Attorney General's Opinion WW-534 (1958), it was held that the Texas Industrial Commission could expend monies for the purpose of planning, organizing and operating a program for attracting and locating new industries in this State, pursuant to the provisions of Article 5190 $\frac{1}{2}$ , Vernon's Civil Statutes, and stated:

"We are sustained in this conclusion in view of the fact that the voters of Texas adopted an amendment to Section 56 of Article XVI of the Constitution of Texas at the general election in 1958 . . ."

In Attorney General's Opinion WW-676 (1959), it was held:

"It is our opinion that Section 56 of Article XVI, supra, together with the enabling act, Article 5190 $\frac{1}{2}$ , constitutes pre-existing law, which would authorize you to pay these accounts, if in fact the accounts for salaries, office rent, etc., were incurred by the Texas Industrial Commission in planning, organizing or operating a program for attracting and locating new industries in the State of Texas. . . ."

The above mentioned Attorney General's Opinions are the only opinions construing the provisions of Section 56 of Article XVI of the Constitution of Texas, as amended in 1958, and, to our knowledge, there has been no decision by the courts of this State construing the amendment.

It appears from the wording of Section 56 of Article XVI that the Legislature has the power to appropriate money for three purposes: (1) "for the purpose of developing information about the historical, natural, agricultural, industrial, educational, marketing, recreational and living resources of Texas . . .", and (2) "for the purpose of informing persons

and corporations of other states through advertising in periodicals having national circulation. . .", and (3) "the dissemination of factual information about the advantages and economic resources offered by the State of Texas. . .". It is clear that purpose (1) does not pertain to advertising, but applies only to the developing of certain information. Where persons and corporations of other states are to be informed about the advantages and economic resources of Texas through the medium of advertising in periodicals, such periodicals must have a national circulation; however, this limitation is clearly applicable only to this particular medium.

You are, therefore, advised that the Legislature may authorize the expenditure of money under Section 56 of Article XVI of the Texas Constitution for the purpose of the dissemination of factual information about the advantages and economic resources offered by the State of Texas. The only limitation placed upon the Legislature as to its choice of the method of the dissemination of factual information about the advantages and economic resources offered by the State of Texas is that when the advertising medium chosen for the purpose of disseminating such information to persons and corporations of other states is a periodical, it must be one of national circulation.

The above conclusion is in harmony with the holdings of Attorney General's Opinion WW-833, WW-534 and WW-676, copies of which are enclosed for your information.

#### S U M M A R Y

The Legislature may authorize the expenditure of money under Section 56 of Article XVI of the Constitution of Texas for the purpose of the dissemination of factual information about the advantages and economic resources offered by the State of Texas by use of radio, newspapers, television and other means deemed appropriate. However, the Constitution prohibits the expenditures of funds for the purpose of disseminating such information to persons or corporations of other states through the medium of advertising in a periodical unless such periodical be one of national circulation.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

By: *Marietta McGregor Payne*  
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Assistant Attorney General

MMP/jp

APPROVED:

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