



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

December 28, 1992

Honorable John T. Montford
Chairman
Finance Committee
Texas State Senate
P. O. Box 12068
Austin, Texas 78711

Letter Opinion No. 92-86

Re: Whether start-up costs for the Texas State Technical College System Extension Center in Marshall, Texas, may be financed by the issuance of bonds by the Marshall Economic Development Corporation (ID# 17640)

Dear Senator Montford:

You have asked whether start-up costs for the Texas State Technical College System Extension Center in Marshall, Texas, may be financed by the issuance of bonds by the Marshall Economic Development Corporation. We believe that such costs may be financed in this manner, so long as the funds generated are used solely for vocational training purposes and not for more general academic instruction.

Section 135.02(a)(5) of the Education Code, as added by Acts 1991, 72d Leg., chapter 268, section 1, adds to the Texas State Technical College system an extension center in Marshall, Texas. By the terms of section 135.02(e), "It is the intent of the legislature that the Texas State Technical Institute extension center in Marshall shall not offer general academic or technical courses or programs that duplicate the general academic or technical courses and programs offered by Panola College, Northeast Texas Community College, and Kilgore College." The TSTC system is authorized under section 135.06(a) of the Education Code "to provide extension programs of training in the fields of Technical-Vocational education as temporary programs to address current unemployment problems." TSTC is empowered by section 135.06(c) to operate such a program "by the use of gifts and grants from any public or private source and other legislative appropriations." Further, section 135.06(e) mandates that "[t]he extension program shall be limited to the needs for Technical-Vocational Training in the area being served"

Your question, as we understand it, is whether the Marshall Economic Development Corporation, a development corporation created under article 5190.6, section 4A, V.T.C.S., may use funds generated by a one-half cent sales and use tax to finance bonds for the start-up costs of the extension program. Such a use would be justified if the extension program constituted a "project" under the terms of article 5190.6, section 2(10).

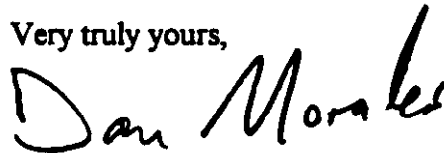
Article 5190.6, section 2(10) defines a project as, *inter alia*, "the land, buildings, equipment, facilities and improvements . . . found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities . . . , [or, in blighted and depressed areas found required or suitable] for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act" While we do not believe that the TSTC facility can reasonably be characterized as a manufacturing or industrial facility, we think it is within the discretion of the board of the Marshall Economic Development Corporation in the first instance to characterize it as suitable for the promotion of commercial development.

We believe that the legislature has found the program to be such an economic development project, particularly in light of section 135.06(a) of the Education Code. As we read that provision, the legislature has taken the view that temporary job training programs of the sort at issue here are "programs to address current unemployment problems," and hence promote commercial development. Accordingly, we agree that the Marshall Economic Development Corporation may use industrial development sales tax funds for the proposed bond issue. We caution, however, that our conclusion is founded on the terms by which the legislature established and has confined the TSTC extension centers, in particular sections 135.02(e), 135.06(a), and 135.06(e) of the Education Code, which confine such a program as this one to technical and vocational training.

S U M M A R Y

The Marshall Economic Development Corporation may use proceeds of a sales and use tax collected pursuant to article 5190.6, section 4A, V.T.C.S., to finance bonds for the start-up costs of the Texas State Technical College System Extension Center in Marshall, Texas, so long as the funds are used solely for technical-vocational training purposes.

Very truly yours,

A handwritten signature in black ink that reads "Dan Morales". The signature is written in a cursive, slightly slanted style.

Dan Morales
Attorney General of Texas