



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

June 14, 1939

Hon. J. L. Crosthwait
County Auditor
Dallas County
Dallas, Texas

Dear Sir:

Opinion No. 0-944

Re: Can the county auditor legally approve of payment for witness fees for expert testimony in condemnation suits for right of way for public road purposes?

Your request for opinion upon the above stated question has been received by this department.

Your letter, in part, reads as follows:

"Dallas County is at this time in the midst of a great number of condemnation suits for right of way for public road purposes, and it is necessary for the County to present expert testimony to testify as to the value of the land in question.

"Will you kindly advise me whether or not I can legally approve for payment witness fee for expert testimony in such suits?"

Texas Jurisprudence, Vol. 11, page 565-566, in part, reads as follows:

"The term 'county business' should be given a broad and liberal construction so as to not defeat the purposes of the law. And it is held that the commissioners' court has implied authority to do what may be

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necessary in the exercise of the duties or powers conferred upon them...."

On January 15, 1931, this department held in an opinion written by Hon. J. H. Stanford, Assistant Attorney General, that the commissioners' court has implied power to contract for services of experts in valuation of property.

Condemnation suits for right of way for public road purposes are clearly "county business". It is clearly the duty of the commissioners' court to make proper preparation for and defense of condemnation suits in which the county is involved. If the commissioners' court of Dallas County feels that it is necessary for the county to employ an expert witness to testify as to the value of the land in question in condemnation suits in order to safeguard the interest of Dallas County, then clearly the commissioners' court has the power to pay such expert witness a reasonable fee for his services.

Therefore, you are respectfully advised that it is the opinion of this department that if the commissioners' court of Dallas County is of the opinion that it is necessary for the county to employ an expert witness to testify in condemnation suits for right of way for public road purposes and agree to pay such expert witness a reasonable fee for such services, and approve his claim for such services, then you should legally approve for payment such claim of such witness for expert testimony.

Trusting that this answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Wm. J. Fanning*
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APPROVED:

George B. Mann
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