



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Marion McGee
County Auditor
Hays County
San Marcos, Texas

Dear Sir:

Opinion No. O-1177

Re: When the county officials
of the county are compensat-
ed on a fee basis is it
legal for the commissioners'
court to allow the county
attorney an ex officio salary?

Your request for an opinion on the above stated
question has been received by this office.

Article 3895, Revised Civil Statutes, reads as
follows:

"The commissioners' court is hereby de-
barred from allowing compensation for ex officio
services to county officials when the compensa-
tion and excess fees which they are allowed to
retain shall reach the maximum provided for in
this chapter. In cases where the compensation
and excess fees which the officers are allowed
to retain shall not reach the maximum provided
for in this chapter, the commissioners' court
shall allow compensation for ex officio ser-
vices when, in their judgment, such compensa-
tion is necessary, provided, such compensation
for ex officio services allowed shall not in-
crease the compensation of the official beyond
the maximum of compensation and excess fees al-
lowed to be retained by him under this chapter.
Provided, however, the ex officio herein author-
ized shall be allowed only after an opportunity
for a public hearing and only upon the affirma-
tive vote of at least three members of the com-
missioners' court."

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In view of the foregoing statute you are respectfully advised that it is the opinion of this department that the commissioners' court may allow compensation for ex officio services when, in their judgment such compensation is necessary, provided, such compensation for ex officio services allowed shall not increase compensation of the county attorney beyond the maximum of compensation and excess fees allowed to be retained by him by the law. You are further advised that the ex officio authorized by Article 3895, supra, shall be allowed only after an opportunity for a public hearing and only upon the affirmative vote of at least three members of the commissioners' court.

Believing that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

AW:LM

APPROVED AUG 4, 1939

Gerrard M. Mann

ATTORNEY GENERAL OF TEXAS

