



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. J. P. Bryan
County Attorney
Brazoria County
Angleton, Texas

Dear Sir:

Opinion No. 0-1757
Re: Salaries of county commissioners
of Brazoria County.

Your letter requesting an opinion of this Department has been received and considered by this department. We quote from your letter as follows:

"I am enclosing a copy of Art. 3912e of the 1925 Revised Civil Statutes. A question has been raised several times as to whether or not this statute would authorize the Commissioners' Court of Brazoria County, Texas to fix their salaries at a figure of not to exceed \$3,750.00. Brazoria County's population lies between 20,001 and 25,000, and the County for this coming year will have an assessed valuation of \$50,000,000.00.

"You will note that in all of the other brackets in this Bill all officers are included, and I believe it was contemplated at the time this Bill was written, although I was not present, that the Commissioners should have been included. The Commissioners are, naturally, desirous of raising their salaries if the same is possible, and, needless, to say with its \$50,000,000.00 valuation Brazoria County has ample funds to pay such salaries. I thought perhaps on reading the Bill as a whole that it might be construed to mean that the salaries of the Commissioners should be in-

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cluded also.

"I would appreciate your opinion on this matter."

Article 3912e, Section 15, Revised Civil Statutes of Texas, a copy of which you enclosed in your letter reads as follows:

"Sec. 15. The Commissioners' Court in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census at the first regular meeting in January of each calendar year, may pass an order providing for compensation of all county and precinct officers on a salary basis. The Commissioners' Court in each of such counties is hereby authorized, and it shall be its duty, to fix the salaries of Criminal District Attorneys. In the event such court passes such order they shall pay to each of said District and County officers in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by said officer in his said official capacity for the fiscal year of 1935 and not more than the maximum allowed such officer under laws existing August 24th, 1935, and not more than the maximum amount allowed such officer under laws existing August 24, 1935, provided, that in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Ten Million (\$10,000,000.00) Dollars according to the last preceding approved tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation, or fractional part thereof, in excess of said Ten Million (\$10,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; provided, however, no salaries covered by this Section shall exceed the sum of Four Thousand Five Hundred (\$4,500.00) Dollars regardless of the percentage of increase in population and valuation and provided further that in all counties having a population of not less than twenty

thousand and one (20,001) and nor more than twenty-five thousand (25,000), according to the last preceding Federal Census, and which has an assessed valuation in excess of Twenty-five Million (\$25,000,000.00) Dollars according to the last preceding approved tax roll of such counties, the county judge, sheriff, county attorney, assessor and collector of taxes, county clerk and district clerk, the maximum salary is hereby fixed at Three Thousand Seven Hundred and Fifty (\$3,750.00) Dollars.

"(a) The compensation of a Criminal District Attorney, or County Attorney who performs the duties of District Attorneys, together with the compensation of his assistants, shall be paid out of the County Officers' Salary Fund, but the State shall pay into such Fund each year an amount equal to a sum which bears the same proportion to the total salary of such Criminal District Attorney, or County Attorney performing the duties of a District Attorney, together with the salary of his assistants, as all felony fees collected by such official during the year of 1935 bear to the total fees collected by such official during such year."

The population of Brazoria County, Texas, according to the last preceding Federal Census is 23,054. The Comptroller also informs us that the 1939 assessed valuation of Brazoria County is \$49,672,531.

We respectfully call your attention to Articles 2350, 2350(1) and 2350(2) of the Revised Civil Statutes of Texas, which read as follows:

Article 2350:

"In counties having the following assessed valuations, respectively, as shown by the total assessed valuations of all properties certified by the county assessor and approved by the Commissioners Court, for county purposes, for the previous year, from time to time, the County Commissioners of such counties shall each receive

annual salaries not to exceed the amounts herein specified, said salaries to be paid in equal monthly installments, at least one-half, and not exceeding three-fourths, out of the Road and Bridge Fund and the remainder out of the General Fund of the county; said assessed valuations and salaries applicable thereto being as follows:

Assessed Valuations	Salaries to be paid each Commissioner
\$6,000,001 and less than \$10,000,000 not to exceed\$1400.00
\$10,000,001 and less than \$13,000,000 not to exceed\$1600.00
\$13,000,001 and less than \$20,000,000 not to exceed\$1800.00
\$20,000,001 and less than \$30,000,000 not to exceed\$2250.00
\$30,000,001 and less than \$78,000,000 not to exceed\$2400.00
\$78,000,001 and less than \$150,000,000 not to exceed.\$2400.00
\$150,000,001 and less than \$150,000,000 and to exceed.\$3600.00
\$150,000,001 and over\$4200.00

"In counties having assessed valuation of less than Four Million Five Hundred Thousand Dollars (\$4,500,000) each commissioner shall receive Five Dollars (\$5) per day for each day served as commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's Precinct, providing in no event shall his total compensation exceed Nine Hundred Dollars (\$900) in any one year.

"In counties having assessed valuation of more than Four Million Five Hundred Thousand and One Dollars (\$4,500,001) and less than Six Million Dollars (\$6,000,000) each commissioner shall receive Five Dollars (\$5) per day for each day served as commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's Precinct, Provided in no event

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shall his total compensation exceed Twelve Hundred Dollars (\$1200) in any one year."

Article 2350(1):

"The salary of each County Commissioner and each County Judge may be paid wholly out of the County General Fund or, at the option of the Commissioners Court, may be paid out of the County General Fund and out of the Road and Bridge Fund in the following proportions: County Judge not to exceed seventy-five per cent (75%) of such salaries may be paid out of the Road and Bridge Fund, and the remainder out of the General Fund of the County, and each County Commissioner's salary may, at the discretion of the Commissioners Court, all be paid out of the Road and Bridge Fund; provided this Section shall not apply except in counties where the constitutional limit of twenty-five cents (25¢) on the One Hundred Dollars (\$100) is levied for general purposes."

Article 2350(2):

"The Commissioners Court at its first regular meeting each year shall, by order duly made and entered upon the Minutes of same Court, fix the salaries of the County Commissioners for such year, within the limits as provided for in this Act."

You are respectfully advised that it is the opinion of this department that Articles 2350, 2350(1) and 2350(2) govern the salaries and method of payment of some of the county commissioners of Brazoria County and that their salaries cannot exceed \$2,400.00 per annum.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning
Wm. J. Fanning
Assistant

APPROVED DEC 11, 1939

Gracie Mann

ATTORNEY GENERAL OF TEXAS

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