



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Payton Burke
County Auditor
Falls County
Marlin, Texas

Dear Sir:

Opinion No. 0-3125

Re: Can the county auditor legally approve a salary claim of the tax assessor-collector in excess of \$2,000 per annum for his chief deputy and \$1,700 per annum for all other deputies?

Your recent request for an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"Please give me a written opinion on the following question:

"Can I, as County Auditor of Falls County, legally approve a salary claim of the Tax Assessor-Collector in excess of \$2,000 per annum for his chief deputy and \$1,700 per annum for all other deputies?

"Falls County has a population, according to the 1940 census, of 35,984 and is operating upon a salary basis."

Article 3902, Vernon's Annotated Civil Statutes, reads in part as follows:

"Whenever any district, county or precinct officer shall require the services of deputies, assistants or clerks in the performance of his duties he shall apply to the County Commissioners' Court of his county for authority to appoint such deputies, assistants

or clerks, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners' Court or any member thereof attempt to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such assistants, deputies or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants or clerks above named for their services shall be a reasonable one, not to exceed the following amounts:

" . . .

"2. In counties having a population of twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (27,500) inhabitants, first assistant or chief deputy not to exceed Two Thousand Dollars (\$2,000) per annum; other assistants, deputies, or clerks not to exceed Seventeen Hundred Dollars (\$1700) per annum each. Provided, however, that in all counties containing a population of not less than thirty thousand (30,000) nor more than thirty-seven thousand, five hundred (37,500), according to the last

preceding Federal Census, and having a valuation in excess of Eighty-five Million Dollars (\$85,000,000), and in all counties having an assessed valuation of not less than Twenty-seven Million, Five Hundred Thousand Dollars (\$27,500,000) nor more than Twenty-seven Million, Seven Hundred Thousand Dollars (\$27,700,000), according to the last approved tax roll, and containing a population of not less than fifty-three thousand, nine hundred (53,900) nor more than fifty-four thousand (54,000) according to the last preceding Federal Census, four (4) deputies in the Tax Collector and Assessor's office may receive not to exceed Twenty-four Hundred Dollars (\$2400) per annum each, the remainder of the deputies in said office shall receive not exceeding Seventeen Hundred Dollars (\$1700) per annum each.

"..."

We are informed that Falls County does not have any of the assessed valuations mentioned in paragraph 2 of Article 3902, that would authorize a different compensation for deputies of the tax assessor-collector, other than that which is provided for by the general provisions of the statute. It will be noted that under the general provision of paragraph 2 of Article 3902 in all counties having a population of 25,001 and not more than 37,500 inhabitants, the first assistant or chief deputy shall receive compensation not to exceed \$2,000 per annum and all other assistants, deputies or clerks shall receive compensation not to exceed \$1,700 per annum each. Therefore your question is respectfully answered in the negative.

We cannot assume from the facts stated in your letter that you have any reference to compensation of deputies of the tax assessor-collector serving in branch offices, and this opinion is not to be construed as touching the same. However, in this connection we call your attention to our opinions Nos. 0-1447 and 0-834, copies

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of which are enclosed for your information.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams
Assistant

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APPROVED FEB 12, 1941
s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS