



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable J. R. (Billy) Hall  
County Attorney  
Lamb County  
Littlefield, Texas

Dear Sir:

Opinion No. 6-3832

Re: Does the Commissioners' Court have the authority to designate more than one bank in the county as county depository?

Your letter of July 28, 1941, requesting an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"I have been instructed by the Commissioner's Court of this, Lamb County, Texas, to submit to you for your opinion the following question, to wit:

"Does the Commissioners Court have authority, under the laws of the State of Texas to designate more than one Bank in the County, as the County depository. That is at the February Term of the Commissioner's Court does the Commissioner's Court have authority to at that time designate one, two, or three banks as the County depository, and keep the County's money in each of the bank so designated by the Commissioner's Court, at the proper time as required by law.

"I have checked the R. C. S. of 1925 from article No. 2544 to 2558A inclusive, and the decisions there under, and it is the opinion of this office that the Commissioners Court has the authority to at the proper time designate as many

banks in the County as they see fit as the depositories, and keep the County money in each of the Bank so designated when they have qualified as County depositories."

Chapter 2, Title 47 (Articles 2544-2558a, inclusive, Vernon's Annotated Civil Statutes) pertains to the application, selection, designation and qualification of county depositories. Article 2546, Vernon's Annotated Civil Statutes, provides in part:

"It shall be the duty of the Commissioners Court at ten o'clock a.m. on the first day of each term at which banks are to be selected as county depositories, to consider all applications filed with the County Judge, cause such applications to be entered upon the minutes of the court and to select those applicants that are acceptable and who offer the most favorable terms and conditions for the handling of such funds and having the power to reject those whose management or condition, in the opinion of the Court, does not warrant placing of county funds in their possession. The County Commissioners Court shall have the power to determine and designate the character and amount of county funds which will be deposited by it in said depositories that shall be 'demand deposits' and what character and amount of funds shall be 'time deposits', and may contract with said depositories in regard to the payment of interest on 'time deposits' at such rate or rates as may be lawful under any Act of the Congress of the United States and any rule or regulations that may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. When the selection of a depository or depositories has been made, the checks of those applicants which have been rejected shall be immediately returned. The check or checks of the applicant or applicants whose applications are accepted shall be returned when said depository or depositories enter into and file the bond required by law and said bond has been approved by the Commissioners Court and the State Comptroller, and not

Honorable J. R. (Billy) Hall, Page 3

until such bond is filed and approved. . . ."

Under the above mentioned statutes, banking corporations, associations or individual bankers desiring to be designated as county depository are authorized to deliver to the county judge an application applying for such funds and said application shall state the amount of paid up capital stock and permanent surpluses of said bank, and there shall be furnished with said application a statement showing the financial condition of said bank and the date of said application, which shall be delivered to the county judge on or before the 1st day of the term of the Commissioners' Court at which the selection of the depository is to be made.

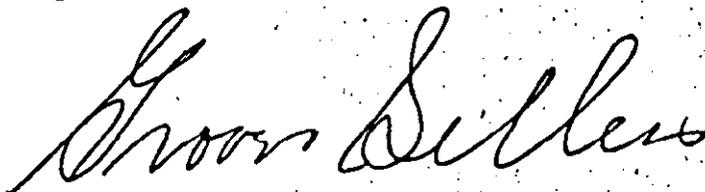
After carefully considering the above mentioned statutes, we agree with the conclusion stated in your letter, and therefore it is our opinion that the Commissioners' Court has the authority at the proper time designated by the statutes, to designate as many banks in the county as they see proper as depositories, and to keep the county money in each of the banks so designated, when said banks have qualified as county depositories under the above mentioned statutes.

However, in this connection we call your attention to our opinion No. O-3238 which holds in effect that the above mentioned statutes clearly require that county depositories are to be selected by the Commissioners' Court from those banking institutions who have regularly made application in accordance with the statutes. Also your attention is directed to our opinion No. O-3172 which holds in effect that the Commissioners' Court has no legal authority to place trust funds in the possession of district clerks and county clerks in different depositories. We are enclosing copies of each of the above mentioned opinions for your information.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS



  
By

Ardell Williams  
Assistant

AW:CO

ENCLOSURE

