



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN.

GERALD C. MANN
ATTORNEY GENERAL

Honorable R. L. Armstrong
County Auditor
Tom Green County
San Angelo, Texas

Dear Sir:

Opinion No. O-3962

Re: Has the county authority to pay clerical or stenographic persons that work with and assist the county case workers who are paid by the State under the new Intake and Certification Division, as set out in the general appropriation bill, and related questions?

Your recent request for an opinion of this department on the questions stated herein reads in part as follows:

"The Commissioners Court of Tom Green County is considering the execution of a contract with the Texas Department of Public Welfare. Under which contract the County will obligate itself to pay clerical and stenographic help working with the State junior field workers and to furnish files, stamps, office supplies, janitor service, and other items necessary to the operation of the local Department of Welfare Office.

"In February, 1940, you rendered this office an opinion, No. O-1972, holding that the County was not authorized to employ clerical help for the Texas and Federal agencies, nor was it authorized to furnish office supplies for such departments. It appears that the provisions of the proposed contract with the Department of Public Welfare would

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be in direct contravention with this opinion as well as several other opinions rendered by your department, such as Opinions Nos. O-120, O-281, O-638, O-1919, and O-3075.

"The question of the authority of the County to execute the above mentioned contract was raised with Mr. James Taylor, County Coordinator, Department of Public Welfare, who presented the contract to the Court. Mr. Taylor propounded the question to Mr. T. E. Darcy, Supervisor, Correspondence and Complaints, of the Department of Public Welfare. I enclose a copy of Mr. Darcy's opinion to Mr. Taylor on the question, which very fully explains the situation and indicates that subsequent legislation has authorized the counties to pay clerical help and furnish office supplies to be used in the local Department of Welfare office.

"I have studied the acts referred to by Mr. Darcy in his opinion, and have discussed them with our County Attorney, but we find no provisions directly authorizing the County to pay for the items in question.

"I dislike burdening your department with questions which you have previously answered, but due to the fact that the Department of Public Welfare was created subsequent to your opinion to me February, 1940, and inasmuch as the act creating the department does make certain inferences concerning the County's responsibility, I wish to certify the following questions:

"1. Has the County authority to pay clerical or stenographic persons that work with and assist the County case workers who are paid by the State under the new Intake and Certification Division, as set out in the General Departmental Appropriation Bill?

"2. Has the County authority to furnish office supplies such as files, stamps, janitor

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service, etc., necessary to the operation of the local Department of Welfare office?

"I enclose a copy of the proposed contract submitted by the Department of Public Welfare and in connection therewith, call your attention specifically to Articles 3 and 5 of such contract, wherein the obligations of the County are set forth."

Our opinion No. 0-1972, referred to in your letter, has been overruled by our opinions No. 0-2217 (conference opinion No. 3099) and No. 0-2474. We enclose copies of these opinions for your information.

Section 1 of Article 2372a-2 provides:

"Section 1. The County Commissioners Courts and the City Commission of any incorporated town or city of this State are hereby authorized to lease, rent, or provide office space for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief to the unemployed or needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas, and water; and when in the opinion of a majority of a Commissioners Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrants as in the payment of such other obligations of the County."

Senate Bill 423, Acts of the 47th Legislature, 1941, Regular Session, which is the general appropriation bill, under the subdivision of "Division of Intake and Certification", provides as follows:

"Provided that the sums hereby appropriated are to supplement the funds being used by the counties and cities of Texas for the

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purpose of making certificates and referrals to the Works Project Administration, the National Youth Administration, the Civil Conservation Corps and the Federal Surplus Commodity programs. Provided, that in the event the sums hereby appropriated are insufficient for the State Department to adequately perform the intake and certification functions of these programs according to the standards and regulations of the State Department of Public Welfare, then in that event the State Department of Public Welfare is hereby empowered and authorized to withdraw its funds and services for these programs from any County or City not contributing monthly to the intake and certification functions of these programs in that County or City in an amount equal to the amount used for the same functions and expended by such County or City during the month of January, 1941: the amount expended during January 1941, includes all amounts used on a cash, kind, rental, lease, contractual or lend basis.

"Provided that the State Department of Public Welfare shall apply to the Works Project Administration for continuing the necessary projects for the commodity distribution and supervision of commodity distribution. And provided that in the event the Works Projects Administration continues to provide funds for these services as it has done since September 1, 1939, then in that event, the State Department of Public Welfare is prohibited from using the funds provided in Items 89 to 126, inclusive, and Item 128 of the above appropriations for these services. Provided further, that in that event, the State Department of Public Welfare may use the funds provided in Items 89 to 126, inclusive, and Item 128, of the above appropriations for transportation of surplus and commodities for the free hot school lunch program and otherwise to the extent necessary for the efficient and eco-

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nomical distribution of surplus commodities made available to the State Department of Public Welfare."

House Bill No. 611, Acts of the 47th Legislature, Regular Session, 1941, which is commonly referred to and cited as the "Public Welfare Act" charges the State Board of Public Welfare with the administration of the welfare activities of the State as mentioned in said Act. Section 40 of this Act specifically provides that "the commissioners' court of any county may appropriate funds from its general funds, or any other available fund, for the administration of such County Child Welfare Boards and provides for services to and support of children in need of protection and/or care." This is the only provision of the Act which directly and expressly authorizes the commissioners' court to make appropriation of its funds for any of the purposes mentioned in the Act.

Subsection 5 of Section 4 of the Public Welfare Act authorizes the State Department of Public Welfare to assist other departments, agencies and institutions of the local State and Federal Government, when so requested and cooperate with such agencies when expedient in performing services in conformity with the purposes of the act.

Subsection 7 of Section 4, supra, authorizes the State Department of Public Welfare to establish and provide such methods of local administration as is deemed advisable, and provide such personnel as may be found necessary for carrying out in an economical way the administration of the Act.

Section 6 of said Act specifically provides in part:

"The State Department is hereby authorized and directed to cooperate with the proper departments of the Federal Government and with all other departments of the State and local Government in the enforcement and administration of such provisions of the Federal 'Social Security Act' and any amendments thereto and the rules and regulations issued thereunder, and in compliance therewith, in the manner prescribed in this Act or as otherwise provided by law."

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Section 7 of the Act provides in part:

"The State Department is hereby designated as the State's agency to administer or supervise referrals and certifications to the Works Projects Administration, the National Youth Administration and the Civilian Conservation Corps. The State Department may cooperate with any City or County in any manner deemed necessary for the proper operation of these programs."

Section 35 of the Act provides:

"The purpose of this Act, is to inaugurate a program of social security and to provide necessary and prompt assistance to the citizens of this State who are entitled to avail themselves of its provisions. This Act shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and expeditiously as possible."

Section 39 of the Act provides:

"No provision of this Act is intended to release the counties and municipalities in this State from the specific responsibility which is currently borne by those counties and municipalities in support of public welfare, child welfare, and relief services. Such funds which may hereafter be appropriated by the counties and municipalities for those services may be administered through the county or district offices of the State Department, and if so administered, shall be devoted exclusively to the services in the county or municipality making such appropriation."

It is well established in this State, by authorities too numerous to mention, that commissioners' courts are courts of limited jurisdiction and possess only, such power and authority, as is granted by the Constitution and statutes of this State, either expressly or by implication.

Does any provision of the Public Welfare Act, above mentioned, expressly authorize, require, or charge a county commissioners' court to cooperate with the State Department of

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Public Welfare or appropriate its funds for any of the purposes mentioned therein, other than Section 40, supra? We think not. Is such authority conferred by implication by any of said provisions? It is our opinion that such authority is not so conferred. If this is true, then, we must look to other statutes for such authority.

Considering the subdivision of "Division of Intake and Certification," Senate Bill 423, supra, we fail to find any authority either expressed or by implication, authorizing requiring or charging a commissioners' court to cooperate with the State Department of Public Welfare or appropriating its funds for any purpose mentioned in the Public Welfare Act or Senate Bill 423, supra. However, it is true that the State Department of Public Welfare is empowered and authorized to withdraw its funds and services for the programs mentioned under the subdivision of "Division of Intake and Certification" from any county or city not contributing monthly to the intake and certification functions of the programs in the county or city in an amount equal to the amount used for the same functions and expended by said county or city during the month of January, 1941.

We fail to find any authority empowering or authorizing a county commissioners' court to appropriate and expend the county funds for any of the purposes mentioned in either of your questions as above stated. Unless, relative to your first question, such expenditures are made "for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief of the unemployed and needy people of the State of Texas." (Our opinion No. 0-3099.)

In answer to your second question you will note that the authority extended by Article 2372e-2, supra, is limited to the provisions of office space and the regular monthly utility bills for such offices such as mentioned therein, for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief of the unemployed and needy people of the State of Texas and does not authorize the furnishing of such supplies as mentioned in your second question.

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Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

RECEIVED NOV 12, 1941
Gov. Allen
GOVERNOR
BY GENERAL

ArdeLL Williams
By *s* ARDELL WILLIAMS
ASSISTANT

AW:NW

APPROVED OPINION COMMITTEE BY E.W.B. CHAIRMAN

