



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable T. M. Trimble, First Assistant  
State Superintendent of Public Instruction  
Austin, Texas

Dear Sir:

Opinion No. 0-4125  
Re: Compensation of first assistant  
and second assistant county  
school superintendents.

We have received your letter of October 15, 1941,  
in which you enclose three letters from Mr. H. G. Hinton,  
County Superintendent of El Paso County.

We quote first from Mr. Hinton's letter of October  
11, 1941, and second from his letter of October 13, 1941, as  
follows:

1. "Now the first question is, may we legally  
pay \$2,000.00 from the County Administration Fund  
to the first assistant and may the Commissioners'  
Court in accordance with the above Act pay \$520.00  
from that fund which will make the first assistant's  
salary \$2520.00 which he is now receiving. I am  
asking would this violate H. B. 364 or Chapter 148,  
Acts 41st Legislature pertaining to El Paso County?"

"The second question is, may we pay \$1,200.00  
to the second assistant from the County Administra-  
tion Fund in accordance with H. B. 364 or Chapter  
148, Acts 41st Legislature (provided we pay no  
other salaries from this fund) and may the Commis-  
sioners' Court pay her \$180.00 in accordance with  
Chapter 148, Acts 41st Legislature, Regular Session  
without violating either law?"

2. "Please supplement that letter (above quoted  
letter) by the following statement and so advise the  
attorney general.

"That the part of the salary for the assistants  
mentioned in my letter paid in accordance with Chap-  
ter 148, is to be paid direct by the Commissioners'

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Court rather than through this office. For example, the schools will pay Erin Bibby \$1,200.00 for 10½ months and the Commissioners' Court will pay her in accordance with the laws above, \$180.00 for 1½ months."

That part of House Bill 364, Acts 1941, 47th Legislature, R. S. (Article 2700-1, Vernon's Annotated Civil Statutes), which is pertinent to your inquiry is quoted as follows:

". . . The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the State Superintendent showing that he has made all reports required of him. The County Superintendent with the approval and the confirmation of the County Board of Education may employ a competent assistant to the County Superintendent at a salary not to exceed Two Thousand Dollars (\$2,000.00) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of such other assistants shall not exceed Twelve Hundred Dollars (\$1200) annually; and the County Board of Education may make further provisions as it deems necessary for office and traveling expenses of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be less than Three Hundred Dollars (\$300) and not more than Eight Hundred Dollars (\$800) per annum, such expense shall first be proven by affidavit therefor, and said Board is hereby authorized to fix the salary of such assistants and pay same out of the same funds from which the salary and expenses of the County Superintendent are paid."

Section 2 of Senate Bill 268, Chapter 148, Acts 41st Leg. R. S. provides as follows:

"Sec. 2. In making the annual per capita apportionment to the schools of the Counties having a population of not less than 100,000

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and not more than 150,000 the County School Trustees shall also make an annual allowance out of the State and County Available Funds for the payment of the salary of the Superintendent of Public Instruction not less than \$2,800.00 nor more than \$3,800.00 and the Commissioners' Courts of the Counties having a population of not less than 100,000 nor more than 150,000 may expend out of the general fund of said counties any sums not exceeding the sum of \$1200 per annum to defray the expenses incurred by said County Superintendent which said sum or any part thereof shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent."

Without passing upon the validity of Senate Bill 268, we deem it sufficient to say that it is not applicable to the matters about which you inquire. Senate Bill 268 deals only with the salary and expenses of the county superintendent, while you ask about the salaries of the first and second assistants to the county superintendent which are fixed by House Bill 364.

On September 10, 1941, this department rendered Opinion No. O-3345 to Honorable Ernest Guinn, County Attorney of El Paso County, which we quote in part as follows:

"We concur with your opinion that House Bill No. 364 places an absolute limitation upon the amount that may be paid for salaries of assistants. The Act plainly provides that one assistant to the county superintendent may be paid an annual salary not to exceed Two Thousand Dollars (\$2000). The Act also plainly provides that such other assistants as necessary may be employed, but that the aggregate amount of the salaries of such other assistants shall not exceed the total sum of Twelve Hundred Dollars (\$1200) annually. It follows that the first assistant may be paid not to exceed Two Thousand Dollars (\$2,000) per annum as salary, and that not more than Twelve Hundred Dollars (\$1200) in the aggregate may be expended for the annual

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salaries for such additional assistants as may be required and authorized."

It follows that both your first and second questions are answered in the negative.

You will notice from that part of House Bill 364 which we have quoted that the compensation provided therein shall be paid monthly. We are, therefore, of the opinion that the monthly payment should be one-twelfth (1/12) of the annual salary specified therein, and that a payment in excess of such amount would be unauthorized.

We now quote from Mr. Hinton's second letter of October 13, 1941, as follows:

"Today the County Board employed Miss Dorothy Scaife as elementary supervisor in this county in accordance with H. B. 364. They employed her for 7 months beginning November 1st for 7 months at a salary of 7/9 of \$2,000.00 to be paid monthly. That is, she was employed for 7 months to receive \$222.22 per month. Miss Scaife must attend summer school next summer and therefore is not eligible to work full time during the summer months. Please secure from the Attorney General and wire if we may employ Miss Scaife for 7 months at 7/9 of \$2,000.00 in accordance with the above facts and in accordance with H. B. 364.

"If the Attorney General advises that we can not employ Miss Scaife as above mentioned, please ask him for an opinion as to whether they may employ her for 10 months beginning November 1st and pay her 10/12 of \$2000.00, same to be paid monthly but at the same time have it understood with Miss Scaife that she may attend school for 12 weeks during the summer of 1942."

Section 2 of House Bill 364 provides as follows:

"Sec. 2 The County Superintendent of Public Instruction may, with the approval of the County Board of Education, employ one or more school supervisors to assist in planning, outlining,

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and supervising the work of the Public Free Schools in the county which is under the supervision of the County Superintendent of Public Instruction. Said supervisor or supervisors shall at all times work under the supervision and direction of the County Superintendent of Public Instruction, as other assistants are required to do, and must have evidence of proficiency in rural school supervision and must be the holder of at least a Bachelor of Science Degree or higher. Such supervisor or supervisors may receive a salary of not to exceed Two Thousand Dollars (\$2,000) per annum, to be paid out of the same funds and in the same manner as that of the County Superintendent of Public Instruction and other assistants."

It is seen that the salary of the supervisor is to be paid in the same manner as that of the county superintendent and other assistants; in other words, it is to be payable monthly.

House Bill 364 does not require that assistants or supervisors be employed for a specific period of time. It merely provides for their employment and fixes their maximum compensation. We believe that if it is determined that a supervisor is needed for a period of time less than a year, such supervisor may be employed for that period of time. But he is entitled to a monthly salary of no more than one-twelfth (1/12) of \$2,000.00, and he cannot be employed and paid for a period of time longer than the time he will act as supervisor and perform such duties as such.

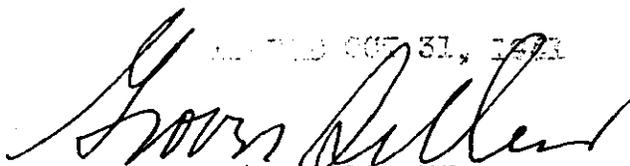
It is asked in Mr. Hinton's letter whether the county board may employ a supervisor for ten months, beginning November 1, 1941, and pay her 10/12 of \$2000, with the understanding that she may attend school for 12 weeks during the summer of 1942. We assume that she would not act as supervisor during the time that she attended school.

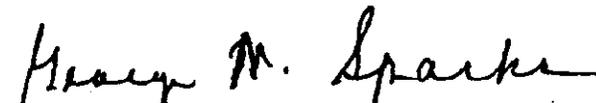
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The eighth, ninth, and tenth months of the contract would be June, July, and August. The twelve weeks of summer school would include part, if not all, of June, all of July, and part of August, and during this time she would not be acting as supervisor. It is our opinion that under the statute she may not be paid for any of the time that she is not acting as supervisor.

Very truly yours:

ATTORNEY GENERAL OF TEXAS

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 GEORGE W. SPARKS  
 ASSISTANT

By   
 George W. Sparks  
 Assistant

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