



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

0-5-035-
GERALD C. MANN
ATTORNEY GENERAL

Honorable Compton White
County Auditor
Freestone County
Fairfield, Texas

Dear Sir:

Opinion No. O-5035

Re: Are the county officials of Freestone County entitled to a refund from the county for bond premiums paid by them from October 3, 1941, to December 31, 1942?

Your letter of January 13, 1942, requesting the opinion of this department on the matters stated therein reads as follows:

"I am advised by the County Attorney of Freestone County, Texas, that the 47th Legislature enacted H. B. No. 524, which appears as Chapter 629, acts of Regular Session which authorizes payments of official bond premiums for the County Treasurer, County Auditor, County Superintendent of Schools and County Commissioners out of the County General Fund. Also are the above named officials entitled to a refund from the county for bond premiums paid by the above named officials from October 3rd, 1941, effective date of this law to December 31st, 1942?"

"Please give me an opinion on the two above propositions at your earliest convenience."

It is noted that you state in effect that you have been advised that the premiums on the official bonds of the County Treasurer, County Auditor, County Superintendent of Schools, and County Commissioners can be paid out of the General Fund of the County. Freestone County has a population

of 21,138 inhabitants according to the 1940 Federal Census, therefore, all of the county officials of said county must be compensated on an annual salary basis as required by Section 13 of Article 3912a, Vernon's Annotated Civil Statutes. The premiums on the official bonds of the above mentioned officials cannot legally be paid out of the General Fund of the County, but such premiums for the official bonds of said officials must be paid out of the Officers' Salary Fund. Our opinion No. O-4183 holds in effect that the premiums on the bonds of the County Treasurer, County Auditor and County Commissioners and the County School Superintendent must be paid out of the Officers' Salary Fund. As you have been furnished a copy of this opinion we deem it unnecessary to send you another copy herewith.

With reference to your second question regarding reimbursement from the county for bond premiums paid by the above named officers from October 3, 1941, to December 31, 1942, it will be noted that Section (b) of Article 3899, Vernon's Annotated Civil Statutes provides in part:

"Each officer named in this Act, where he receives a salary as compensation for his services, shall be entitled and permitted to purchase or charge to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on official bonds, premiums on fire, burglary, theft, robbery insurance protecting public funds, and including the cost of surety bonds for his deputies, provided that expenses incurred for premiums on official bonds for the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector, including the cost of surety bonds for any deputies of any such officers, may be also included, and such expenses to be passed on, predetermined and allowed in the time and amount, as nearly as possible, by the commissioners' court once each month for the ensuing months, upon the application by each officer, stating the kind, probable amount of expenditure and the necessity for the expenses of his office for such ensuing months, which application shall, before presentation to said court, first be endorsed by the county auditor, if any, otherwise the county treasurer, only as to whether funds are available for payment of such expenses.

Honorable Compton White, Page 3

. . . All such approved claims and accounts shall be paid from the Officers' Salary Fund unless otherwise provided herein."

Ordinarily bond premiums as mentioned in the foregoing statute, are paid in advance covering a period of one year. The statute (Article 3899) as amended became effective October 3, 1941. When the County Treasurer, County Auditor, County Commissioners and the County School Superintendent made their official bonds for the year 1941, said statute authorizing the above named officials to charge necessary bond premiums to the county was effective. Therefore, it is our opinion that the county cannot legally reimburse the county officials heretofore mentioned for bond premiums paid by them for the year 1941.

The statute (Article 3899) was effective when said officials made their official bonds for the year 1942. However, there are no facts before us that would indicate that said county officials complied with the provisions of said statute in presenting their applications to the Commissioners' Court endorsed by the County Auditor as to whether funds were available in the Officers' Salary Fund for payment of such expenses, stating the kind, probable amount of expenditure and the necessity for expenses for bond premiums to be passed on, predetermined and allowed by the Commissioners' Court. It will be noted that the statute makes no provision for a refund or reimbursement for bond premiums paid by said county officials. Unless said county officials complied with the provisions of the statute as heretofore mentioned, it is our opinion that the county cannot legally reimburse the county officials for bond premiums paid by them. In the absence of any facts to the contrary, we assume that the county officials did not comply with the provisions of Article 3899, supra. If we are correct in this assumption, you are respectfully advised that the county cannot now legally refund or reimburse the county officials for bond premiums paid by them for the year 1942.

APPROVED FEB 19, 1943

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*
Ardell Williams
Assistant

AW:mp

