



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Ned Price, Chairman  
Committee on Judicial District  
House of Representatives  
Austin, Texas

Dear Sir:

Opinion No. 0-6410  
Re: Maximum compensation allowed  
by law to the County Auditor for  
Limestone County.

Your letter of January 30, 1945, requesting the opinion  
of this department on the questions stated therein is, in part,  
as follows:

"Limestone County according to the 1940 census had a pop-  
ulation of 33,781, and value of all property as shown by the  
State Comptroller's office was \$14,995,970.

"What is the maximum salary allowed by law in this county  
for County Auditor? . . ."

Article 1645, Vernon's Annotated Civil Statutes, provides  
for the appointment and compensation of County Auditors in coun-  
ties having a population of 35,000 or more inhabitants according  
to the last preceding Federal Census, or having a tax valuation  
of Fifteen Million (\$15,000,000) Dollars or more, according to the  
last approved tax roll. Limestone County does not have either the  
prescribed population or assessed tax valuation required by Arti-  
cle 1645, to authorize the appointment of the County Auditor under  
that Article.

Article 1646, Vernon's Annotated Civil Statutes, provides:

"When the commissioners' court of a county not mentioned  
and enumerated in the preceding article shall determine that  
an auditor is a public necessity in the dispatch of the county's  
business and shall enter an order upon the minutes of said

court fully setting out the reasons for the necessity of an auditor, and shall cause such order to be certified to the district judges having jurisdiction in the county, said judge or judges shall, if said reason be considered good and sufficient, to appoint a county auditor as provided in the preceding article, who shall qualify and performs all the duties required of county auditors by the laws of this state, and who shall receive as compensation for his services as county auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the assessor and collector of taxes in his county, and not less than the annual salary allowed such county auditor under the general law provided in Article 1645, Revised Civil Statutes, as said article existed on January 1, 1940, such salary of the county auditor to be determined and fixed by the district judge or district judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the County. The action of said district judge or district judges in determining and fixing the salary of the county auditor shall be made by order and recorded in the minutes of the district court of the county and the clerk thereof shall certify the same for observance to the commissioners' court which shall be the cause of the same to be recorded in its minutes; after the salary of the county auditor has been fixed by the district judge or district judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county; provided, however, any increase in the salary of any such county auditor over and above the annual salary allowed such county auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed and permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected or may be affected by the provisions of this act; such consent and approval of such commissioners' court shall be made by order of such court and recorded in the minutes of the commissioners' court of such county. Provided, said district judge or district judges shall have the power to discontinue the services of the county auditor as provided for in this article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such auditor is not a public necessity, and his services are not

commensurate with his salary."

Article 1645, Vernon's Annotated Civil Statutes, as it existed January 1, 1940, read in part as follows:

"In any county having a population of thirty-five thousand (35,000) inhabitants, or over, according to the preceding Federal Census, or having a tax valuation of Fifteen Million (\$15,000,000) Dollars, or over, according to the last approved tax rolls, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be county auditor, who shall hold his office for two (2) years, and who shall receive as compensation for his services One Hundred and Twenty-Five Dollars (\$125.00) for each million dollars, or major portion thereof from the assesses valuation, the annual salary to be computed from the last approved tax roll; said annual salary from county funds shall not exceed Three Thousand Six Hundred Dollars (\$3,600)

. . .

It will be noted that Article 1646 provides in effect that the county auditor appointed under the provisions of said statute shall receive as compensation for his services as county auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the assessor and collector of taxes in his county and not less than the annual salary allowed such county auditor under the general law provided in Article 1645, as said article existed on January 1, 1940. According to the tax valuation of Limestone county the annual salary or compensation of their county auditor under Article 1645, as said article existed on January 1, 1940, would be Eighteen Hundred and Seventy-five dollars (\$1875.00). That is the minimum salary or compensation fixed by Article 1646. The annual maximum salary allowed the county auditor under article 1645 cannot be more than the amount allowed the assessor and collector of taxes in such county. The salary of the county auditor is to be fixed and determined by the district judge or district judges having jurisdiction in the county, and where there is more than one district judge, a majority ruling must be had in determining and fixing the salary of the county auditor. However, if there is any increase in the salary of the county auditor over and above the annual salary allowed the county auditor under the general law provided in Article 1645, as said article existed on January 1, 1940, the same shall only be allowed and permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected by the provisions of the act, and such consent and approval of such provisions of the act, and such consent and approval of such commissioners' court, shall be made by order of such court and recorded in the minutes of the commissioners' court of such county.

In other words, the salary of the county auditor is to be determined and fixed by the district judge or district judges having jurisdiction in the county, if there is and increase in the salary of the county auditor over and above the annual salary allowed such county auditor under the general law provided in article 1645, as said article existed on January 1, 1940, the increase in salary shall not be allowed or permitted without the express consent and approval of the commissioners' court of the county whose county auditor is affected.

Summarizing, you are advised; first that the minimum compensation of the county auditor of Limestone County, is Eighteen Hundred and Seventy-five Dollars (\$1875.00) per annum, and that the maximum compensation of said county auditor cannot exceed the annual total compensation and/or salary allowed or paid the assessor and collector of taxes in Limestone County.

Yours very truly,  
ATTORNEY GENERAL OF TEXAS

By  
Ardell Williams  
Assistant

AW:zd:bg            APPROVED FEB. 9, 1945  
Charles C. Ashley (8)  
FIRST ASSISTANT  
ATTORNEY GENERAL

APPROVED  
Opinion  
Committee

By BWB  
chairman