



**THE ATTORNEY GENERAL
OF TEXAS**

Grover Sellers

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable V. L. Pitman
County Attorney
Anderson County
Palestine, Texas

Dear Sir:

Opinion No. 0-6557
Re: Commissions of Tax Assessor-
Collectors for independent
districts under Article 2791,
V.A.C.S., and related matter.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"I am writing for an opinion in answer to the questions hereinafter stated, which involve the Cayuga School District, No. 28, in Anderson County. The facts which may be relevant in the consideration of said questions are as follows: The Cayuga School District has a scholastic population of about 200 with about 40 transfers in. The approximate property valuation for the School District this year will be \$2,400,000.00, the school tax rate is \$1.00 per \$100.00. The Assessor and Collector of taxes is employed for assessing and collecting only and is not employed for any other service in the community.

"(1) Is the above mentioned district required by law to pay the Tax Assessor-Collector for the assessing and collecting of said taxes exactly 4% of the taxes received by him, or can the district pay him more than 4% if it desires?
(2) If the estimated amount of taxes collected for this year is \$2,400.00, does the Tax Assessor-Collector's bond necessarily have to be double that amount, or, under the law, can the bond be a less amount?

"Article 2791, Texas Revised Civil Statutes seem to answer these questions, but I am not

sure that a strict compliance with this Article is required, as it may be considered only directory. If the law requires a strict compliance with this Article, it seems that the payment by the district of more than 4% of the taxes received to the Assessor and Collector would be unauthorized.

"Your opinion on these matters will be appreciated."

"Article 2791, Vernon's Annotated Texas Civil Statutes, reads in part as follows:

"The district tax assessor and collector shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the city marshal of incorporated towns or villages, and he shall receive such compensation for his services as the board of trustees may allow, except in cities and towns provided for, not to exceed four per cent of the whole amount of taxes received by him. He shall give bond in double the estimated amount of taxes coming annually into his hands, payable to and to be approved by the president of the board, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the board all funds coming into his hands by virtue of his office as such assessor and collector;. . ."
(Underscoring ours)

It is our opinion that the above quoted statutory provisions are plain, unambiguous and answer each of your questions. It is our opinion therefore:

1. The tax assessor-collector of the school district is entitled to collect such percentage as allowed him by the board of trustees of the district, not to exceed 4 per cent of the whole amount of taxes received by him. The trustees are not required to allow him 4 per cent thereof, and may allow less, and they are without authority to allow him more than 4 per cent of the whole amount of taxes received by him.

2. It is our opinion that the amount of the bond of such tax assessor-collector must be double the

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estimated amount of taxes coming annually into his hands.

Yours very truly

ATTORNEY GENERAL OF TEXAS

s/ Wm. J. Fanning

By

Wm. J. Fanning
Assistant

WJF:BT/cg

APPROVED MAY 14, 1945

s/ Carlos C. Ashley

FIRST ASSISTANT ATTORNEY GENERAL

Approved Opinion Committee
By GWB, Chairman