



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
~~WILLIAM WILSON~~
ATTORNEY GENERAL

January 30, 1947

Mrs. Aillen Mitchell
County Auditor
Fort Bend County
Richmond, Texas

Opinion No. V-21

Re: Authority of County
Clerk to charge a fee
for recording deputy
commissions.

Dear Mrs. Mitchell:

Your letter of recent date requesting an opinion from this Department on the above subject matter is as follows:

"The question has arisen in our County as to whether or not it is legal, under the law for the County Clerk to charge a registration fee for recording deputations such as the Sheriff's and Tax Assessor's deputy commissions.

"We have several new deputies in these offices for this year and we would appreciate your advice and opinion as to whether we should charge a recording fee for placing their deputations on record."

Fort Bend County has a population, according to the 1940 Federal Census, of 32, 963. Therefore, county officers of said county are compensated on a salary basis.

Section 1 of Article 3912e provides:

"No district officer shall be paid by the State of Texas any fees or commission for any service performed by him; nor shall the State or any county pay to any county officer in any county containing a population of twenty thousand (20,000) inhabitants or more according to the last preceding Federal Census any fee or commission for any service by him performed as such officer; provided, however, that the assessor and collector of taxes shall continue

to collect and retain for the benefit of the Officers' Salary Fund or funds hereinafter provided for, all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such monies received by him into the fund or funds created and provided for under the provisions of this Act; provided further, that the provisions of this Section shall not affect the payment of costs in civil cases by the State, but all such costs so paid shall be accounted for by the officers collecting same, as they are required under the provisions of this Act to account for fees, commissions and costs collected from private parties."

In view of the foregoing provision, it is the opinion of this Department that the county cannot pay any fee to the County Clerk for recording appointments or deputations of deputies.

The law requires the appointment or deputation of certain deputies to be recorded in the office of County Clerk. For example: deputy county clerks-- Article 1938, deputy district clerks - Article 1898, deputy sheriff - Article 6869. We do not find, however, any statute requiring the recordation in the County Clerk's office of the appointment or deputation of deputy tax assessor.

Article 3930 provides, in part, as follows:

"Clerks of the county Court shall receive the following fees:

"Recording all papers required or permitted by law to be recorded, not otherwise provided for, including certificate and seal, for each 100 words .15"

Therefore, it is our further opinion that the County Clerk would be entitled to receive a fee of fifteen (15¢) cents for each 100 words from the deputies for the recording of the appointment or deputation of those deputies whose appointment is required to be recorded, but said fee must be deposited in the Officers' Salary Fund.

SUMMARY

- (1) County cannot pay any fee to the County Clerk for recording appointments or deputations of deputies.
- (2) County Clerk is entitled to a fee of fifteen (15¢) cents for each 100 words from the deputies for recording their appointments or deputation; said fee to be deposited in the Officers' Salary Fund.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

John Reeves
Assistant

JR:djm:/pd

APPROVED JAN 30, 1947
PRICE DANIEL
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
BY BWB, CHAIRMAN