



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**

ATTORNEY GENERAL

March 20, 1947

Hon. Royce Whitten  
County Attorney  
Lamar County  
Paris, Texas

Opinion No. V-92

Re: Authority of the Commissioners' Court to determine sheriff's bond and pay premiums on official bonds of sheriff's deputies in salary counties.

Dear Mr. Whitten:

Your recent request for an opinion of this Department reads as follows:

"Please advise me as to whether or not the County Auditor or Commissioners' Court has authority to set the amount of the Sheriff and his deputies official bonds.

"I call your attention to excerpt of your Department's Opinion No. 0-5110, To: Ray Winder, County Attorney, Cooke County; Date, February 18, 1943. This doesn't answer my question in that said excerpt reads in part that the Sheriff may require his deputies to execute surety bonds but my inquiry is when such Sheriff requires his three riding deputies. Chief Deputy and Day Jailer to make bonds in the sum of \$5000.00 each, his Night Jailer, \$1000.00, together with his own in the amount of \$12,000, what right, if any, does the County Auditor and/or Commissioners' Court have to refuse paying such premium?"

Article 6866, R. C. S. of Texas, provides in part as follows:

"Every person elected to the office of sheriff shall, before entering upon the duties of his office, give a bond with two or more good and sufficient sureties, to be approved by the Commissioners' Court of his county, or such sum as may be directed by such court, not less than \$5000.00 nor more than \$30,000.00,

payable to the Governor and his successors in office, conditioned that he will account for and pay over to the persons authorized by law to receive the same, all fines, forfeitures and penalties that he may collect for the use of the State or any county . . .

Article 6870, Revised Civil Statutes of Texas provides as follows:

"Sheriffs shall be responsible for the official acts of their deputies, and they shall have power to require from their deputies bond and security; and they shall have the same remedies against their deputies and sureties as any person can have against a sheriff and his sureties."

By virtue of the above authorities, the Commissioners' Court shall approve the bond of the sheriff in an amount not less than \$5000.00 nor more than \$30,000.00, to be determined by the Commissioners' Court. Further, the sheriff shall have the power to require bonds of deputies, and if such power is exercised, it is the opinion of this Department that the authority to determine the amount of the bond is vested in the sheriff.

Section (b), Article 3899, V. C. S., reads in part as follows:

"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 officials' 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 officials' 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 month, 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 month, 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.

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

Article 3899, supra, was amended by Senate Bill No. 270, Acts of the Regular Session of the 45th Legislature, to provide for the payment of surety bonds for the deputies of those officers receiving a salary as compensation for their services. By a subsequent amendment in 1941 by House Bill 524, Acts of the Regular Session of the 47th Legislature, Article 3899 was further amended to provide that the premiums on official bonds for county treasurers, county auditors, county road commissioners, county school superintendents, and hide and animal inspectors and their deputies should be paid from county funds and in so doing provided further "that if any of the officers so designated are on a salary rather than a fee basis, then all such bond premiums for officers and their deputies shall be paid from the General Fund of the county." Therefore, it will be seen that Section (b) of Article 3899 would be applicable to your county inasmuch as Lamar County has a population in excess of 20,000 inhabitants according to the 1940 Federal Census and must be compensated on a salary basis. (Art. 3912e, V. C. S.)

In conformity with the statute above quoted, it will be noted that the Commissioners' Court is only authorized to pay "all reasonable expenses necessary." While it may be contended that the cost of official bonds for deputies may only be paid if they are required by law to execute such bonds, nevertheless, the statute evidences, at least by implication, a legislative intent that the cost for official bonds for deputies shall be paid, if

the same is a reasonable and necessary expense. Moreover, Article 6870, supra, authorizes a sheriff to require a bond of his deputies at his option and discretion, (Attorney General Opinion No. 0-5110, dated February 18, 1943) and if such a bond is required, it is the opinion of this Department that the cost of such official bond for a deputy is an authorized expenditure to be paid from the Officers' Salary Fund of your county upon a finding of the Commissioners' Court that the same is a reasonable bond and a necessary expense.

Therefore, it is the opinion of this Department that when the county officials of a county are compensated on an annual salary basis, the premiums on the bonds of said officers and their deputies must be paid by the county as authorized by Section (b) of Article 3899, V. C. S., from the Officers' Salary Fund of said county.

We are herewith enclosing for your information a copy of Opinion No. 0-5055, written by this Department on January 29, 1943, which holds that bond premiums for certain named county officials and their deputies in counties operating on a salary basis should be paid out of the Officers' Salary Fund of the county.

SUMMARY

1. The amount of the official bond for a sheriff is determined by the Commissioners' Court, and the amount of the official bond for a sheriff's deputy is determined by the sheriff. (Arts. 6866 and 6870, R. C. S.)

2. The cost of official bonds of a sheriff and his deputies, compensated on a salary basis, is an authorized expenditure, allowable by the Commissioners' Court from the Officers' Salary Fund.

APPROVED MAR. 20, 1947

*Price Daniel*  
ATTORNEY GENERAL

EW:djm:WB:mrj  
Encl.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Burnell Waldrep*  
Burnell Waldrep  
Assistant