



**THE ATTORNEY GENERAL
OF TEXAS**

JOHN BEN SHEPPERD
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AUSTIN 11, TEXAS

June 17, 1954

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. MS-139

Re: Salary increases for
specified personnel of
the judiciary under
Senate Bill 2, Acts of
Fifty-third Legislature,
First Called Session

Dear Mr. Calvert:

You have asked for an opinion on the following
question:

"Would the following named officers be entitled to a ten (\$10.00) dollar per month raise in salary under the provisions of Senate Bill No. 2 passed by the Special Session of the 53rd Legislature: Clerks, Deputy Clerks, Secretary or Stenographers and Librarian for each of the Courts of Civil Appeals; Clerk, Chief Deputy Clerk, Deputy Clerks, Deputy Clerk and Secretary to Board of Law Examiners, Chief Briefing Attorney, Briefing Attorneys, Secretaries to the Judges of the Supreme Court, Reporter and Assistant to the Chief Justice, Marshall and Assistant Librarian for the Supreme Court; Clerk, Secretary-Bailiff, Secretary-Clerk, Secretaries, Editor of Court Reports, Secretary to Editor of Court Reports of the Court of Criminal Appeals; State's Attorney and Clerk-Secretary for the Court of Criminal Appeals; District Judges; District Attorneys and Assistant District Attorney of the 53rd Judicial District?"

Section 1 of Senate Bill No. 2 appropriates a sufficient amount of money from the General Revenue Fund, and from other funds from which salaries and wages are payable, to pay a ten-dollar-per-month wage increase, with certain exceptions, for each position named in Articles I, II, III and V of the current

general appropriation act. Acts 53rd Leg., R.S., 1953, ch. 81. Various general provisions, such as an exception prohibiting any increase to existing salaries in excess of \$10,000 per year, and other limitations and conditions which have no specific application to any of the positions here inquired about, are set out in sections of the Act following Section 1.

Your question has arisen because the language of Subsection (c) of Section 1 differs from the more general phrasing of Subsection (a) and, particularly, because Subsection (c) specifically excepts only "those positions for which the salaries are fixed by the Constitution or for which the salaries fixed by General Laws are not suspended by Chapter 136 . . ." whereas Subsection (a) appears to except from the ten dollar increase all judicial branch "positions for which the salaries are fixed by General Laws."

Chapter 136, Acts of the Regular Session of the Fifty-third Legislature (codified in a note following Article 6813, Vernon's Civil Statutes) expressly suspends all statutes in conflict therewith, and states that:

"Section 1. The salaries of all State officers and all State employees, except those Constitutional State officers whose salaries are specifically fixed by the Constitution, and except the salaries of the District Judges and other compensation of District Judges, shall be for the period beginning September 1, 1953, and ending August 31, 1955 in such sums or amounts as may be provided for by the Legislature in the general appropriations Act. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court and the Court of Criminal Appeals.

"Sec. 3. The facts that salaries of many State officers and employees were fixed by Statute, and that these Statutes hamper

the appropriations committees of both Houses of the Legislature in adjusting the salaries of said officers and employees in their efforts to balance the State's budget, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended; and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

As we see it the controlling question is, Did the Legislature in Subsection (a) intend to exclude from the increase all judicial branch salaries fixed by general law prior to Chapter 136, or to exclude from the increase only those judicial branch salaries fixed by general law which were not suspended by Chapter 136 (i.e., district judges)?

The salaries of many of the offices and other judicial branch positions inquired about in your request never have been fixed by general law and, consequently, could not be excluded from the salary increase under either interpretation of Subsection (a). Cf. Art. 6822, V.C.S. But the contrary is true as to some of these positions. E.g., Art. 1836a (clerks and stenographers, Courts of Civil Appeals and Court of Criminal Appeals), Art. 3886f (district attorneys and State's Attorney), Art. 6819a-4(c) (district judges).

Perhaps there are other judicial branch positions than those cited, the salaries of which are fixed by existing general law. But we think it unnecessary to make a complete determination and differentiation on this ground between the numerous positions inquired about because, in our opinion, the Legislature in Subsection (a) intended to grant the increase to all judicial branch salaries except those fixed by a general law which, at the time of passage of Senate Bill No. 2, had not been suspended for the current biennium by Chapter 136. In other words, the only judicial

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branch salaries coming within the exception in Section 1, Subsection (a) of Senate Bill No. 2 are those for district judges.

Yours very truly,

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