



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 18, 1955

Honorable Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Opinion MS-213
Re: Constitutionality of
Senate Bill 414, 54th
Legislature, prescrib-
ing minimum salaries
to be paid certain em-
ployees in certain
counties.

Dear Governor Shivers:

You have requested an opinion on the constitutionality of Senate Bill 414, 54th Legislature, providing for minimum salaries of certain county employees in certain counties. At the present time, Senate Bill 414 would apply only to Bexar County. It prescribes the minimum salaries of certain county employees at the pay they received in February, 1955, plus 15%. This minimum salary is in excess of the minimum salary in counties having a greater population. Article 3912e-4d, Vernon's Civil Statutes.

Section 56 of Article III of the Constitution of Texas prohibits the enactment of local or special laws regulating the affairs of counties.

The primary and ultimate test of whether a law is general or special is whether there is a reasonable basis for the classification made by the law and whether the law operates equally on all within the class. Rodriguez v. Gonzales, 148 Tex. 537, 227 S.W. 2d 791 (1950); Bexar County v. Tynan, 128 Tex. 223, 97 S.W. 2d 467 (1936); Miller v. El Paso County, 136 Tex. 370, 150 S.W. 2d 1000 (1941), Oakley v. Kent, 181 S.W.2d 919 (Tex.Civ.App. 1944).

The courts have consistently held that a classification such as is contained in Senate Bill 414 would violate the provisions of Section 56 of Article III, stating that the Legislature may classify counties on a basis of population for the purpose of fixing compensation, yet in doing so "the classification must be based upon a real distinction and must

not be arbitrary or a device to give what is in substance a local or special law the form of a general law. . . If the Legislature ignores the obvious fact that the work of county officers is proportionate to the population and classifies counties in such a way that the compensation of officers of a county having a large population is fixed far below the compensation allowed like officers in small counties, such action amounts to fixing a classification which is arbitrary and which has no true relevancy to the purpose of the Legislature." Bexar County v. Tynan, supra.

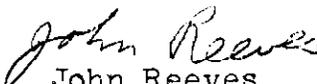
In view of the foregoing, it is our opinion that Senate Bill 414 of the 54th Legislature, is unconstitutional.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD
Attorney General of Texas

J. C. Davis, Jr.
County Affairs Division

By 
John Reeves
Assistant

Robert O. Fagg
Reviewer

L. P. Lollar
Reviewer

Robert S. Trotti
First Assistant

JR:zt