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January 11th, 1939

Hon. Frank R. Murray
County Attorney
Panhandle, Texas

Dear Sir:

Opinion No. 0-67

Re: Computing Maximum
Salary of County Judge

Your request for an opinion on the question;

"Whether or not the amount paid a county judge as ex-officio superintendent is to be included in computing maximum salary that can be paid him?"

has been received by this office.

Article 2693, Revised Civil Statutes provides the maximum fees for county judges, as well as other county and district officers:

"Fees of all kinds for public officers embrace every kind of compensation allowed by law, unless excepted by some provision of the statute." (Eastland County vs. Hazel, et al 288 S.W., 518.)

"The compensation limitations and maximums fixed in the statute are made applicable to all officers mentioned therein, in each and every county of the state, and they apply to all fees and compensations whatsoever collected by officers in their official capacities, except rewards received by sheriffs for the apprehension of criminals and moneys received by county judges and justices of the peace for performing marriage ceremonies." (Texas Jurisprudence, Volume 34, Page 537, Section 118.)

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"Each officer to whom the statute applies is required to keep a correct account of the sum coming into his hands as fees and commissions in a book provided for that purpose and at the close of each fiscal year, to make to the district court of the county, a sworn statement showing the amount of fees collected by him, the amount of fees charged and not collected, and the number of assistants employed by him during the year and the amount paid or to be paid each." (Article 3897, R.U.S., Article 3878 Texas Jurisprudence, Volume 34, Page 548, Section 128.)

You are respectfully advised that it is the opinion of this department that the question propounded by you must be answered in the affirmative, and that the county judge must include the salary received as fees as ex-officio county superintendent in computing his maximum salary. The county judge is not entitled to compensation provided by statute when acting as ex-officio county superintendent over and above his maximum compensation and excess fees, but must account for said ex-officio compensation when arriving at his maximum salary.

Trusting that the foregoing answers your inquiry, I remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Arnell Willson*
Assistant

AW:ob

APPROVED

Gerald B. Mann
ATTORNEY GENERAL OF TEXAS