

May 23, 1939

Honorable A. P. Prestwood
County Auditor
Smith County
Tyler, Texas

Dear Sir:

Opinion O-170

Re: Whether \$50.00 allowed to
County Superintendents for
expenses under Article 2700,
Revised Civil Statutes,
1925, covers only traveling
and car expense, or both
traveling expense and office
expense.

Your request for an opinion from this department by letter of May 16, reads as follows:

"Referring to Article 2700 R.C.S.
1925 relative to Salary and Expense
allowed County Superintendent.

"The County Superintendent of
Smith County is allowed from the
State and County Available Fund
\$50.00 per month for expenses.

"Will you please give me a ruling
whether or not this covers only
traveling and car expense or does it
cover office expense as well."

Article 2700, Revised Civil Statutes of 1925,
which determines the annual salary to be paid the County
Superintendents, based on the scholastic population of
their respective counties, contains the following relevant
provisions pertaining to the expenses of the County
Superintendents:

" . . . In making the annual
per capita apportionment to the

schools, the county school trustees shall also make an annual allowance out of the State and county available funds for salary and expenses of the office of the county superintendent, and the same shall be prorated to the schools coming under the supervision of the county school superintendent. . . .The county board of trustees may make such further provision as it deems necessary for office and traveling expenses for the county superintendent and any assistant he may have; provided that expenditures for office and traveling expenses shall not exceed three hundred dollars per annum, and the county board of trustees may make provision for the employment of a competent assistant for the county superintendent who shall, in addition to his other duties, act as attendance officer; . . ."

The Revised Civil Statutes of 1911, Article 2758, Acts of 1907, contained the following provision:

". . .that the county superintendent shall be allowed any sum not to exceed One Hundred Dollars per year for stamps, stationary, expressage and printing to be paid by the Commissioners' Court out of the county general fund. . ."

No traveling expense was thus allowed, and such expense of office was restricted to such classifications as similar to the items listed.

By the Acts of 1920, Third Called Session, Chapter 57, the Legislature evidently seeing that this \$100.00 per year expense was inadequate, and that the County Superintendent was put to quite an expense in going from one school to another in his county, amended Article 2758, Revised Civil Statutes, 1911, making such expense provisions read substantially the same as now appear in the Acts of 1923, our present Article 2700, Revised Civil Statutes, 1925.

It will be noted that since the amendment as contained in Article 2700, to the Acts of 1907, Article 2758, Revised Civil Statutes, 1911, the county trustees are directed to make an annual allowance out of the State and county available funds for salary and expenses of the office of the County Superintendent. The Legislature no doubt intended for the words "expenses" of the office" to be given a liberal and broad meaning. It does not appear, however, that the Legislature intended to confine such expense to traveling expense, or to restrict such expense to those items formerly enumerated, strictly speaking, office expense such as stationary, stamps and the like, and omitted from the amendment. We construe the entire Act to allow reasonable and necessary expenses incurred in the legal and proper conduct of the office of County Superintendent. This view is supported also by the provision in the statute which limits the amount of such expenditures made by the County Superintendent, and with any assistant, if any, which provides "that expenditures for office and traveling expenses shall not exceed Three Hundred Dollars," . . . (underscore ours).

Our attention is also called to the following words of the caption of the bill enacted in 1920 at the Third Called Session, Chapter 57, which read:

"An Act to amend Article 2758, . . . relating to the salaries of said County Superintendents of public instruction, increasing the salaries of said County Superintendents, providing for office and traveling expenses; . . ."

We think the language contained in Article 2700 is clear as to the limit that can be set aside by the county trustees and expended by the County Superintendent, whether such covers stationary and stamps or expenses of travel, or whether he has an assistant or not. Reading the Act as a whole, it is evident that the provision limiting expenditures to Three Hundred Dollars per annum for office and traveling expenses, applies to the term "expenses of the office of the County Superintendent" without distinguishing between expense incurred while traveling and purely office expense.

It is, therefore, the opinion of this department that any sum, not to exceed Three Hundred Dollars

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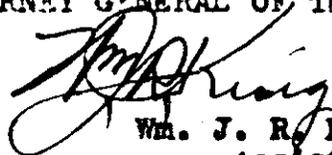
per annum, allowed as expenses under the provisions of Article 2700, Revised Civil Statutes, 1925, would cover and include both traveling and office expense.

Trusting the above answers your question, we remain

Yours very truly

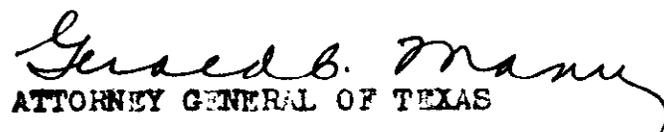
ATTORNEY GENERAL OF TEXAS

By


Wm. J. R. King
Assistant

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APPROVED:


ATTORNEY GENERAL OF TEXAS

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