OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

MANN
GENERAL

March 1, 1939

Hon. John C. Farmer
Assistant County Attorney
Fannin County
Bonham, Texas

Dear Sir:

Opinion No. O-367
Re: Duty of Commissioners' Court to pay premiums on official bonds.

This will acknowledge receipt of your letter of February 16, 1939 in which you request the opinion of this Department on the following questions:

"1. Is Article 3899 as amended in 1937 a mandatory law or an optional or directory law?

"2. Are premiums on official bonds a necessary expense according to Article 3899?

"3. Are premiums on surety bonds for deputies a necessary expense according to Article 3899?

"4. In case Article 3899 is mandatory and the Commissioners' Court continues in refusing to allow these accounts, what is the remedy for the county officials named in the article and their deputies who made bonds?"

You do not state in your inquiry but it is determined that the population of Fannin County, as reflected by the last Federal census, is 41,163, hence your officials are receiving compensation on a salary basis.

Paragraph 1 of Section (b) of Article 3899, Revised Civil Statutes of Texas, 1925, reads in part as

follows:

> "Each officer named in this act, where he received a salary as compensation for his services, shall be empowered and permitted to purchase and have charged to his county, all reasonable expenses necessary in the proper and legal conduct of his office, premiums on officials' bonds, premium on fire, burglary, theft, robbery insurance protecting public funds and including the costs of surety bonds for his deputies * * * "

The very language of such hereinabove quoted article gives the officials governed thereby absolute authority to have charged to the county such reasonable expenses as are necessary for the successful conduct of his office. It cannot be assumed that the premium for officials' bonds nor for the bonds to be provided by the deputies is anything but a necessary expense for reason that they are by law required to give bond before entering into the execution of their duties. This particular article further provides that:

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

There appears to be no other provision of the statute that would justify the payment of these items out of any other fund.

It is further provided in paragraph 2, Section (b) of Article 3899 that in the rejection of claims made and asserted by officials compensated on a salary basis, that:

> "* * * Such item may be adjudicated in any court of competent jurisdiction."

It is, therefore, the opinion of this department, and you are so advised that Article 3899 as amended in 1937 is mandatory insofar as the duty of the Commissioners' Court is concerned with respect to the payment of premiums on officials' bonds and bonds of

their deputies, and that the answer to your second and third questions is in the affirmative. You are further advised, in response to your question No. 4, that in the event the Commissioners' Court refuses to allow the items which constitute the basis for this opinion, to-wit, bond premiums for officials and deputies, that they have their remedy, as provided by law, to file suit in a court of competent jurisdiction to require the payment of the items under consideration.

Trusting that this satisfactorily answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By Lloyd Armstrong
Lloyd Armstrong
Assistant

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APPROVED:

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS