



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable R. S. Wyche
County Auditor
Gregg County
Longview, Texas

Dear Sir:

Opinion No. 0-1161

Re: Has the commissioners' court authority to transfer money received from auto registrations to the officers' salary fund regardless of the status of the general fund?

Your request for an opinion on the above stated question has been received by this office.

Article 6675a-10, Revised Civil Statutes, reads as follows:

"On Monday of each week each County Tax Collector shall deposit in the County Depository of his county to the credit of the County Road and Bridge Fund an amount equal to one hundred (100%) per cent of net collections made hereunder during the preceding week until the amount so deposited for the current calendar year shall have reached a total sum of Fifty Thousand (\$50,000.00) Dollars.

"Thereafter, and until the amount so deposited for the year shall have reached a total of One Hundred Seventy-five Thousand (\$175,000.00) Dollars he shall deposit to the credit of said Fund on Monday of each week an amount equal to fifty (50%) per cent of collections made hereunder during the preceding week.

"Thereafter, he shall make no further deposits to the credit of said Fund during that calendar year. All collections made during any week under the provisions of this Act (Arts. 6675a--1 to 6675a--14; F. C. Art. 870a) in excess of the amounts required to be deposited to the credit of the Road and Bridge Fund of his county shall be remitted by each County Tax Collector on each

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Monday of the succeeding week to the State Highway Department, together with carbon copies of each license receipt issued hereunder during the preceding week. He shall also on Monday of each week remit to the Department as now provided by Law, all transfer fees and chauffeurs' license fees collected by him during the preceding week, together with carbon copies of all receipts issued for said fees during the week.

"He shall also accompany all remittances to the Highway Department with a complete report of such collections made and disposition made thereof, the form and contents of said report to be prescribed by the State Highway Department. None of the monies so placed to the credit of the Road and Bridge Fund of a county shall be used to pay the salary or compensation of any County Judge or County Commissioner, but all said monies shall be used for the construction and maintenance of lateral roads in such county under the supervision of the County Engineer, if there be one, and if there is no such engineer, then the County Commissioners' Court shall have authority to command the services of the Division Engineer of the State Highway Department for the purpose of supervising the construction and surveying of lateral roads in their respective counties. All funds allocated to the counties by the provisions of this Act (Arts. 6675a-1 to 6675a-14; P.C. Art. 807a) may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the County Road System."

We are informed by the Comptroller's office that Gregg County has a population of 15,788 according to the last Federal census, and that the county officials of Gregg County are compensated on an annual salary basis.

Section 4 of Article 3912e, R. C. S., reads as follows:

"In all counties of this State containing a population of less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census wherein the county or precinct officers are compensated on a salary basis under the provisions of this Act, there shall be created a fund to be known as the "Offi-

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cers' Salary Fund of _____ County, Texas.' Such fund shall be kept separate and apart from all other county funds, and shall be held and disbursed for the purpose of paying the salaries of officers and the salaries of deputies, assistants and clerks of officers who are drawing a salary from said fund under the provisions of this Act, and to pay the authorized expenses of their offices. Such fund shall be deposited in the county depository and shall be protected to the same extent as other county funds."

Section 6, of Article 3912e, R. C. S., reads in part as follows:

"(a) In counties wherein the county officials are on a salary basis, in addition to the monies deposited in said Officers' Salary Fund or funds under the provisions of Sections 1, 3 and 5 of this Act there shall be deposited therein quarterly on the first day of January, April, July and October of each year, such sums as may be apportioned to such county under the provisions of this Act, out of the available appropriations made by the Legislature for such purposes provided, however, that in counties wherein the Commissioners' Court is authorized to determine whether county officers shall be compensated on a salary basis, no apportionment shall be made to such county until the Comptroller of Public Accounts shall have been notified of the order of the Commissioners' Court that the county officers of such county shall be compensated on a salary basis for the fiscal year,

"(b) No officer receiving a salary shall hereafter receive any ex officio compensation; provided, however, the Commissioners' Court shall transfer from the General Fund of the county to the Officers' Salary Fund or funds of such county such funds as may be necessary to pay the salaries and other claims chargeable against the same when the monies deposited therein are insufficient to meet the claims payable therefrom."

Article 6675a--10, supra, specifically provides that none of the monies so placed to the credit of the Road and Bridge Fund of the county shall be used to pay the salary or

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compensation of any County Judge or County Commissioner, but all said monies shall be used for the construction and maintenance of lateral roads in such counties, and that all funds allocated to the counties by the provisions of the act may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the County Road System.

In view of the foregoing statutes, you are respectfully advised that it is the opinion of this department that the Commissioners' Court does not have the authority to transfer monies received from auto registrations to the Officers' Salary Fund, regardless of the status of the General Fund.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams

Ardell Williams
Assistant

AW: jm

APPROVED AUG 28, 1939

Gerard C. Mann

ATTORNEY GENERAL OF TEXAS

