



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

*Jefferson Co,*

Honorable E. W. Easterling  
County Attorney, Jefferson County  
Beaumont, Texas

Dear Sir:

Opinion No. 0-2602  
Re: Constitutionality of H. B.  
1061, Acts 1959, 46th Leg.,  
R. S., P. 311, Ch. 6.

This will acknowledge receipt of your letter of August 19, 1949, requesting the opinion of this department as to the constitutionality of H. B. 1061, Acts 1959, 46th Legislature, Regular Session, Page 311, Chapter 6, relating to payments by candidates for state representative to the County Executive Committee in certain counties.

House Bill 1061, reads, in part, as follows:

"Section 1. That from and after the effective date of this Act, in all counties in this State having a population of not less than one hundred and thirty-three thousand, three hundred and ninety-one (133,391) and not more than one hundred and fifty thousand (150,000), and in all counties in this State having a population of not less than fifteen thousand, one hundred and forty-nine (15,149), and not more than fifteen thousand, five hundred and twenty-five (15,525), according to the last preceding Federal Census, no person who is a candidate in a primary election of such counties for nomination for State Representative, shall have his or her name placed on the primary ballot to be voted on at any election unless and until he or she has paid to the County Executive Committee of the political party, whose nomination he or she seeks, the sum of One Hundred Dollars (\$100); provided, however, that where said counties are a part of a Floterial Representative District, the Floterial Representative

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in such counties shall not have his or her name placed on the official ballot for Electoral Representative unless and until he or she shall have paid to the Chairman of the County Executive Committee of the political party, whose nomination he or she seeks, the sum of Fifty Dollars (\$50.), in each of said counties."

Section 56 of Article 3 of the Constitution of Texas, provides, in part:

"The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing: \* \* \*

"And in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing special laws for the preservation of the game and fish of this State in certain localities."

In Opinion No. O-2447, a copy of which is enclosed, this department held that an almost identical statute, Article 3116c, Vernon's Annotated Civil Statutes, applying to counties within the population brackets 43,000-43,100, 40,000-40,100, and 38,000-39,000, was null and void, being repugnant to Section 56 of Article 3 of the Constitution of Texas.

For precisely the same reason we believe that H. B. 1061 is unconstitutional. At the time payments were made to the County Executive Committee the "last preceding Federal census" was that of 1930. According to such census the only counties falling within the population brackets described in H. B. 1061 were Jefferson and Orange Counties, Texas, which had populations of 138,391 and 15,149 inhabitants, respectively. Candidates for the same office from El Paso County with a population of 131,597 were required to pay only one dollar. Candidates from Atascosa County with 15,654, Lee County with 15,721, Bosque County with 15,750, Gregg County with 15,778, and Wheeler County with 15,535, were likewise required to pay only one dollar. Just why candidates for election to the Legislature in Jefferson and Orange Counties should be required to pay \$50.00 to the County Executive Committee and candidates for the same office residing in counties of greater and less population in the same population strata should be required to pay only one dollar is apparent neither from the bill nor any valid reason we can conceive.

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For the reasons stated and under the authorities set forth in Opinion No. O-2447, we hold, and you are respectfully advised that H. B. 1061, Acts 1939, 46th Leg., P. 311, Ch. 8, is unconstitutional, being repugnant to Section 56 of Article 3 of the Constitution of Texas.

Very truly yours

APPROVED AUG 22, 1940

ATTORNEY GENERAL OF TEXAS

*George A. Miller*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By

*James D. Smullen*  
JAMES D. SMULLEN  
Assistant

JDS:EP

ENCLOSURE

