

Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. In counties having a population of not less than twenty-seven thousand, four hundred and forty-one (27,441) and not more than twenty-seven thousand, four hundred and fifty (27,450), and in counties having a population of not less than twenty thousand and forty-eight (20,048) and not more than twenty thousand and fifty-five (20,055), and in counties having a population of not less than twenty-five thousand, three hundred and ninety-four (25,394) and not more than twenty-five thousand, four hundred (25,400), and in counties having a population of not less than ten thousand, nine hundred seventy-five (10,975) and not more than ten thousand, nine hundred and eighty-five (10,985), according to the last preceding Federal Census, and the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; providing that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

"Sec. 2. All laws and parts of laws, General and Special, in conflict with this Act are hereby repealed.

"Sec. 3. The great diversity of conditions existing in counties with a population of not less than twenty-seven thousand four hundred and forty-one (27,441), and not more than twenty-seven thousand,

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four hundred and fifty (27,450), and in counties with a population of not less than twenty thousand and fortyeight (20,048) and not more than twenty thousand and fifty-five (20,055), and in counties having a population of not less than twenty-five thousand, three hundred and ninety-four (25,394) and not more than twenty-five thousand, four hundred (25,400), according to the last preceding Federal Census, and the large amount of traveling and the expense of such to the County Superintendent in spending most of his time in supervision of schools in such counties, many of which are a great distance from the office of the County Superintendent, and the many added duties creating extra expenses of the office, and due to the financial conditions of the different county General Funds, counties have not been able to purchase supplies for the office, and the further fact that the sum of Three Hundred Dollars (\$300) per year, now allowed by General Law to Superintendents of such counties, is wholly inadequate to meet the expense of the County Superintendent incident to the work and traveling required, and thereby causing a great financial burden to be sustained by said County Superintendents, and in many instances materially reducing the efficiency of the office, constitute an emergency and an imperative public necessity, and authorize the suspension of the Constitutional Rule, requiring bills to be read on three several days in each House, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

"Approved April 9, 1937.
"Effective April 9, 1937."

The population of DeWitt County, Texas, according to the 1930 Federal Census, was 27,441 inhabitants and was the only county in Texas, according to the 1930 Federal Census, coming within the population brackets of not less than 27,441 and not more than 27,450 inhabitants set out in the bill.

The population of Victoria County, Texas, according

to the 1930 Federal Census, was 20,048 inhabitants and was the only county in Texas, according to the 1930 Federal Census, coming within the population brackets of not less than 20,048, and not more than 20,055 inhabitants set out in the bill.

The population of Washington County, Texas, according to the 1930 Federal Census, was 25,394 inhabitants, and was the only county in Texas, according to the 1930 Federal Census, coming within the population brackets of not less than 25,394 and not more than 25,400 inhabitants set out in the bill.

The population of Jackson County, Texas, according to the 1930 Federal Census, was 10,980 inhabitants, and was the only county in Texas, according to the 1930 Federal Census, coming within the population brackets of not less than 10,975 and not more than 10,985 inhabitants set out in the bill.

This department has held many acts similar to House Bill 721, supra, to be unconstitutional and void. We enclose herewith a copy of Opinion No. 0-1004 of this department which holds House Bill 474 of the 46th Legislature, to be unconstitutional and void as a local or special law attempting to regulate the affairs of counties.

Under the authorities cited in our Opinion No. 0-1004, we hold House Bill 721 of the 45th Legislature of Texas, to be a local or special law attempting to regulate the affairs of counties and school districts in violation of Article 3, Section 56 of our State Constitution, and therefore unconstitutional.

Since said act is unconstitutional and void it never applied to Victoria County nor to DeWitt, Washington, Jackson nor any other county in this State.

Victoria County, Texas, according to the 1940 Federal Census, as shown by a published report of same in the Dallas News dated August 11, 1940, as released by John L. Lewis, U.S. Census Supervisor, has a population of 23,642 inhabitants.

The population of DeWitt County, Texas according to the 1940 Federal Census, referred to above, is 24,972 inhabitants.

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tants.

The population of Washington County, Texas, according to the 1940 Federal Census, referred to above, is 25,373 inhabitants.

The population of Jackson County, Texas, according to the 1940 Federal Census referred to above, is 11,710 inhabitants.

Even if H. B. 721, supra, were constitutional, (which it is not) its provisions would not now apply to Victoria, DeWitt, Washington nor Jackson Counties, Texas.

We enclose herewith a copy of Opinion No. 0-2337 of this department which contains a comprehensive discussion as to when the 1940 Federal Census becomes controlling under our statutes involving population.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning

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Assistant

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ENCLOSURES

APPROVED SEP 9, 1940

Gerrit L. Mann

ATTORNEY GENERAL OF TEXAS

