



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Forrester Hancock
Criminal District Attorney
Waxahachie, Texas

Dear Sir:

Opinion No. 0-3018
Re: Salary of county auditor.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Does an Auditor in a county of forty-seven thousand population and with a valuation of twenty-seven and one-half million, ascertain and derive his salary under Art. 1645 d-1 or Art. 1645 e-1, R.C.S., 1925?"

"I am of the opinion that the last mentioned statute is applicable to the local situation and that in such cases Art. 1645 d-1 is controlling over the facts I have stated.

"Will you kindly render me an opinion over the facts I have quoted."

Article 1645d-1, Vernon's Annotated Texas Civil Statutes, cited by you, was held unconstitutional as a local and special law attempting to regulate the affairs of counties, by Opinion No. 0-2973 of this department. Certain provisions of Article 1645e-1, Vernon's Annotated Texas Civil Statutes, were also held unconstitutional as a local and special law attempting to regulate the affairs of counties by Opinion No. 0-2973. We think the provisions of Article 1645e-1, V.A.T.C.S., applicable to the population brackets set out in your letter are also clearly unconstitutional as a local and special law attempting to regulate the affairs of a county, under the authorities cited in Opinion No. 0-2973. We enclose herewith a copy of said opinion.

The following provisions of Article 1645, Vernon's Annotated Texas Civil Statutes, will control the question

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herein:

"In any county having a population of thirty-five thousand (35,000) inhabitants, or over, according to the preceding Federal Census, or having a tax valuation of Fifteen Million Dollars (\$15,000,000), or over, according to the last approved tax rolls, there shall be biennially appointed an Auditor of Accounts and Finances, the title of said officer to be County Auditor, who shall hold his office for two (2) years, and who shall receive as compensation for his services One Hundred and Twenty-five Dollars (\$125) for each million dollars, or major portion thereof on the assessed valuation, the annual salary to be computed from the last approved tax rolls; said annual salary from county funds shall not exceed Three Thousand, Six Hundred Dollars (\$3,600)...."

Under the facts stated the county auditor's salary should be set on the basis outlined by Article 1645, supra, (\$125.00 on each million dollars valuation or major portion thereof, which in this instance would be 27 x \$125.00 inasmuch as one-half million is not a major portion of one million) and the proper amount for said salary is the sum of \$3,375.00.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Manning

Wm. J. Manning
Assistant

APPROVED JAN 15, 1941

Gerardo Mann
ATTORNEY GENERAL OF TEXAS

WJF:AW

ENCLOSURE

