



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. O-3082
Re: Disposition of fees collected
under House Bill 845, action
of the 47th Legislature, Regu-
lar Session.

You have submitted to this department the following
question:

"Will you kindly examine House Bill 845 and
advise me if the State Banking Commissioner will
be required to deposit the fees levied therein
into the State Treasury and disburse same on state
warrants in the manner as other State moneys."

The pertinent portion of House Bill 845 reads as
follows:

". . .
"Article 2465. "Supervision": Such credit
union shall maintain such books and records as
the Banking Commissioner may deem necessary. The
Banking Commissioner shall cause each credit union
to be examined at least once yearly, such examina-
tion to be made by (1) some competent person or
persons designated by the Banking Commissioner,
who shall be paid by the Banking Commissioner an
amount not to exceed ninety (90) per cent of the
fees as herein provided, which said fees shall be
paid to said Banking Commissioner by the respect-
ive unions examined as provided by this Act as
compensation for his or their services and as re-
imbursement for travel expenses and other expenses
incurred; (2) by one or more credit union examiners,
who shall be appointed by the Banking Commissioner

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and shall receive a salary of not exceeding Three Hundred Dollars (\$300) per month, and shall be reimbursed for travel expenses in the sum of Four Dollars (\$4) per day, plus cost of transportation, such examiners to retain their salary and expenses, as above provided out of fees collected by them as hereinafter provided; (3) or by the Deputy Commissioner, Departmental Examiner, any bank examiner, assistant bank examiner, building and loan supervisor or building and loan examiner, who shall receive and retain the fees collected by them as hereinafter provided, such fees so collected to be credited on the salary of the person collecting the same, so that such person shall in no event receive compensation in excess of his salary as provided by law.

"Each credit union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Twenty-five Dollars (\$25) per day per person engaged upon such examination.

"All fees, as above provided, shall be paid by the credit union to the person or persons making the examination, and such persons shall make a monthly account to the Banking Commissioner of the fees so collected during the preceding month, fees in excess of those retained by the examiner as above provided shall be paid to the Banking Commissioner and by him deposited with the State Treasurer to be held in a special fund and used for the purpose of enforcing the provisions of this law.

"After September 1, 1943, the number of the employees and the salaries of each shall be as fixed in the biennial Departmental Appropriation Bill."

". . . ."

The Act clearly provides that the fees to be paid shall be collected by the examiner and retained by him for his own use and benefit, as his compensation for services rendered and to defray his expenses. As other officers operating on the fee system, the examiner collects these fees for

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his own personal use and benefit, not for the use and benefit of the State. The amount to be retained by the examiner is limited, and the excess must be paid to the Banking Commissioner and by him deposited with the State Treasurer to be held in a special fund and used for enforcing the provisions of the credit union law. The excess fees, therefore, must be paid into the Treasury to the credit of this special fund provided, and disbursed on warrants as other State moneys; but the fees to be retained by the examiner are not required to be paid into the Treasury and disbursed on warrants.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. Fairchild
Assistant

RWF:mp

APPROVED SEP 23, 1941

Gerald. Mann

ATTORNEY GENERAL OF TEXAS

