



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Tom L. Hartley  
Criminal District Attorney  
Edinburg, Texas

Dear Sir:

Opinion No. O-3892  
Re: Compensation of District  
Judges of Hidalgo County  
as members of the County  
Juvenile Board.

*Superseded By  
ant. 29-d  
V.C.S*

Your recent request for an opinion of this department upon the questions as are herein stated has been received.

We quote from your letter as follows:

"This office has been requested by the Commissioners Court of Hidalgo County to request an opinion of your Department with reference to the status of Hidalgo County with respect to Article 5139, Revised Civil Statutes, 1925.

"Prior to the official census of 1940 Hidalgo County had a population of less than 100,000 inhabitants. The official census of 1940 gives Hidalgo County a population in excess of 100,000.

"Hidalgo County has never contained and does not now contain a city having a population of 70,000 or more.

"Hidalgo County has in the past levied and will in the future levy the constitutional limit of 25¢ on the \$100.00 valuation for general county purposes. However, 10¢ of this annual levy has been allocated to the servicing of outstanding indebtedness in pursuance of a re-funding decree entered by the U. S. District Court for the Southern District of Texas, the

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remaining 15% of the levy does not produce sufficient revenue to defray the ordinary governmental expenses of the county.

"By the provisions of Chapter 16 of the Acts of the 35th Legislature, as amended by Chapter 58 of said Acts and as further amended and continued in force by the provisions of Chapter 139 of the Acts of the 37th Legislature, in counties having a population of 100,000 or more and also containing a city of 70,000 or more, the District Judges of such counties were made members of a Juvenile Board and their salaries were increased by the sum of \$1,500.00 per year, payable out of the general funds of such county upon order of the Commissioners' Court. However, in the codification of the Revised Civil Statutes of 1925 the requirement that a county contain a city having a population of 70,000 or more before such Juvenile Board would be created and the salary of such District Judges would be increased, was omitted from Article 5139.

"In view of these Acts and the codification of the Revised Civil Statutes of 1925 and Section 2 of the repealing clause of the final title of the 1925 Revised Civil Statutes, are the District Judges of Hidalgo County entitled to \$1,500.00 additional annual salary for their services as members of the County Juvenile Board?

"We are familiar with your opinion Number O-2932 addressed to the Honorable Tom A. Craven, County Auditor of McLennan County with reference to the status of McLennan County and with your ruling in said opinion that the Commissioners' Court has no legal basis for exercising a discretion in determining whether or not to order the payment of the additional amount specified in the statute. However, taking into consideration the additional fact that the 15% of the levy above referred to

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does not produce sufficient revenue to defray the ordinary governmental expenses of the county, would this in any manner affect the right of the Commissioners' Court to exercise their discretion in ordering payment out of the general funds of the county?"

In view of our opinion No. 0-2932, your first question as quoted above is respectfully answered in the affirmative. What was said in that opinion is equally applicable to the question here considered.

With reference to your second question you are advised that it is our opinion that the Commissioners' Court of Hidalgo County has no legal basis for exercising its discretion in determining whether or not to order the payment of the additional amount specified in Article 5139, Vernon's Annotated Civil Statutes, regardless of the fact that the 15¢ of the levy referred to in your letter does not produce sufficient revenue to defray the ordinary governmental expense of the county. As above stated in view of our opinion No. 0-2932 and the authorities cited therein, we think that this opinion specifically answers both of the questions submitted in your inquiry as above indicated. We are enclosing a copy of this opinion for your information.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED MAR 24, 1941

*George A. Allen*  
FIRST ASSISTANT  
ATTORNEY GENERAL

*Ordell Williams*  
By  
Ordell Williams  
Assistant

AW:GO

ENCLOSURE

