



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

C O P Y

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable R. S. Wyche
County Auditor
Gregg County
Longview, Texas

Dear Sir:

Opinion O-3454

Re: What is the law governing the number of deputies of the sheriff of Gregg County and what is the minimum and maximum salary of his deputies, and related county questions?

Your recent request for an opinion of this department on the question stated herein has been received.

We quote from your letter as follows:

"Prior to the Federal Census of 1940 Gregg County had a population of 15,778 and according to the 1940 census taken the county has a population of 58,027. According to the last approved tax roll the county has a tax evaluation of \$106,500.00. The county is on a salary basis by order of the Commissioners' Court.

"What is the law governing the number of deputies of the sheriff and what is the minimum and maximum salary of his deputies? (There is a special law allowing 14 deputies for the sheriff of this county.)

"What is the salary of the County Commissioners for this county and what expense for car and other expense may be legally allowed the Commissioners? (There is a special law on expenses which allows them \$50.00 per month.)

"What is the salary of the county auditor of this county? (There is a law providing \$4,200.00

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with certain population and valuation bracket.)

"What is the salary of the Judge of this county?"

"What is the salary of the County Superintendent of Schools and expenses allowable?"

"There have been pending bills relating to some of these officers and expenses in the present legislature but I do not know if any of them have been passed."

Article 6869b, Vernon's Annotated Civil Statutes, is not applicable to Gregg County as this statute applied only to those counties having a population of less than twenty thousand inhabitants according to the last preceding Federal Census and having a property valuation in excess of one hundred million dollars, according to the approved State and county tax rolls for the preceding year. The number of deputies to which the sheriff is entitled is fully discussed in our Opinion No. 0-12, which we are enclosing for your information. The minimum and maximum salaries of such deputies is governed by Section 3, of Article 3902, Vernon's Annotated Civil Statutes, which provides in effect that in counties having a population of 37,501 and not more than 60,000 inhabitants the salary of the first deputy shall not exceed \$2100.00 per annum and the salary of other deputies shall not exceed \$1800.00 per annum each. It is apparent that the above mentioned section of Article 3902 provides a maximum salary for the deputies as above stated but it does not fix any minimum salary. Therefore, the maximum salary of the deputies of the sheriff is the maximum of \$2100.00 per annum for the first deputy and \$1800.00 per annum for the other deputies. The minimum salary of all such deputies is not fixed by law but may be determined by the Commissioners' Court.

In reply to your second question, your attention is directed to Article 2350, Vernon's Annotated Civil Statutes, which provides, among other things, that the salaries of the county commissioners in counties having assessed valuations of more than seventy-eight million and one dollars and less than one hundred and thirty million dollars as shown by the total assessed valuations of all property certified by the county assessor and approved by the commissioners' court for county purposes, for the previous

year, the county commissioners of such county shall each receive annual salaries not to exceed thirty-four hundred dollars per annum each. Your attention is called to Article 2350c, Vernon's Annotated Civil Statutes, which provides in part that all counties having an assessed valuation of all taxable property of one hundred million dollars or more, based on the approved tax rolls of the year 1923, the county commissioners may each receive a salary of \$3600 per annum each. According to the last approved tax roll Gregg County had a total assessed valuation of one hundred six million five hundred thousand dollars. We do not think Article 2350c, supra, has any application to the question under consideration. It is our opinion that the salaries of the county commissioners of Gregg County are controlled by Article 2350, supra, and the salaries of such commissioners cannot exceed \$3400 per annum each. After careful search of the statutes we have been unable to find any special or general law authorizing county commissioners in counties having a population and the assessed valuation of property as Gregg County, allowing any expense whatsoever for such commissioners in the conduct of their office.

With reference to your third question you are advised that the salary of the county auditor of Gregg County is governed by Article 1645, Vernon's Annotated Civil Statutes, which provides in effect that the county auditor shall receive as compensation for his services \$125.00 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. In this connection, it is to be noted that Article 1645e-1 provides in part: "That in every county in this state having a population of less than thirty-three thousand according to the last preceding Federal Census, and having assessed property valuation of more than eighty million dollars, according to the last approved tax rolls, the compensation of each county auditor shall not exceed \$4200.00. "This statute is not applicable to Gregg County as the population of such county is more than thirty-three thousand inhabitants according to the 1940 Federal Census.

In answer to your fourth question, you are advised that the salary of the county judge is fixed by the provisions of Article 3912e, Section 13, Vernon's Annotated Civil Statutes, which provides in effect that each of said officers named in the statutes which includes the county

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judge, shall be paid in money an annual salary in twelve equal installments of not less than the total sum earned as compensation by him in his official capacity for the physical year 1935 and not more than the maximum amount allowed such officer under laws existing on August 24, 1935. The minimum and maximum salary of the county judge is fixed by the above mentioned provision of Article 3912e and it is within the discretion of the commissioners' court to determine the salary of the county judge, provided, the minimum is not less than the total sum earned as compensation by him in his official capacity for the physical year 1935 and that the maximum salary is not more than the amount allowed such officer under laws existing on August 24, 1935.

We now consider your fifth question. There are numerous statutes regarding the salaries and office expenses of county superintendents in the various counties. We fail to find any statute providing the salary and office expenses of a county superintendent of a county having the population of Gregg County. Therefore, it is our opinion that the salary and office expenses of the County Superintendent of Gregg County are provided by Article 2700, Vernon's Annotated Civil Statutes. As we do not have the scholastic population of such county we cannot determine the exact amount of salary that the County Superintendent is entitled to under such statute. However, after the scholastic population has been determined the amount of the salary of the county superintendent can easily be ascertained under the above mentioned statute. The amount of the traveling expenses and expenditures for the office shall not exceed \$300.00 per annum.

Trusting that the foregoing fully answers your inquiry we are

Yours very truly

AW:JM

ATTORNEY GENERAL OF TEXAS

By S/Ardell Williams, Assistant

APPROVED MAY 14, 1941
BY S/GROVER SELLERS

FIRST ASSISTANT ATTORNEY GENERAL

WJF

APPROVED OPINION COMMITTEE

BY S/
CHAIRMAN