



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable John R. Shook  
Criminal District Attorney  
San Antonio, Texas

Dear Sir:

Attention: Hon. Jay Sam Levey

Opinion No. O-4036  
Re: County health employees

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

"The Commissioners' Court of Bexar County has requested us to secure an opinion from you concerning the legality and validity of an order passed by it granting two employees of the health department official leave of absence for three months, with pay, in order to take special courses at Texas A & M College, the State Department of Health furnishing two substitutes to take their places without remuneration from the County.

"We are enclosing herewith a copy of such order.

"Last year, at our request, you rendered an opinion under No. O-1940, in which you held that the Commissioners' Court would not have the authority to pay the salaries of inspectors and employees of the County engaged in public health work while such employees are absent from the County, performing no duties, but taking special training. You will note that the present order authorizes the payment of salaries to such absent employees whose posi-

Honorable John R. Shook, Page 2

tions are filled without expense to the County, the Court believing that the additional training secured by such employees will greatly benefit the County and would constitute a good investment even if it were necessary to pay for substitute employees.

"Our question then is:

"Can the Commissioners' Court grant a leave of absence, with pay, to county health employees to enable them to take a special training course outside of the County where the State Department of Health is providing substitutes to perform their duties at no additional cost to the County? . . ."

Under the authorities cited in opinion No. 0-1940, of this department, a copy of which is enclosed herewith, it is our opinion that your question should be answered in the negative and it is so answered.

A further reason why the county may not pay the salaries of these employees while they are on a leave of absence is that such payment would amount to a gratuity which is inhibited by Article 3, Section 52 of our Constitution.

Very truly yours

APPROVED OCT 2, 1941  
*Groves Bell*  
FIRST ASSISTANT  
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By *Wm. J. Fanning*  
Wm. J. Fanning  
Assistant

WJF:CO

ENCLOSURE

