



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable E. L. Shelton
County Auditor
Johnson County
Cleburne, Texas

Dear Sir:

Opinion No. O-4183

Re: In view of the amendment to Article 3899, Vernon's Annotated Civil Statutes, should the premium on bonds of the county treasurer, county auditor, and county road commissioners be paid out of the general fund?

In your letter requesting an opinion of this department on the above stated question you cite House Bill No. 524, Acts of the Forty-seventh Legislature, Regular Session, 1941, and state "it occurs to me that there has been an attempt to require the premium of bonds on the county treasurer, county auditor and county road commissioners to be paid by the county and out of the General Fund. Am I correct or not? I have always heretofore held and refused to pay the bond premium for the above named officers."

We also have your letter of October 29, 1941, supplementing the letter just quoted, in part. As we understand your request you desire to know whether or not the premium on bonds of the county treasurer, county auditor, and county road commissioners of Johnson County should be paid out of the General Fund or some other fund, and on this premise we answer the above stated question.

The caption of House Bill No. 524, Acts of the Forty-seventh Legislature, Regular Session, 1941, reads as follows:

"An Act amending Article 3899, Revised Civil Statutes of Texas, 1925, as amended by Chapter 311, Acts of the Forty-fourth Legislature, Regular Session, and Chapter 465, Acts of the Second

*affirmed by
R-2327 B51*

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Called Session, Forty-fourth Legislature, and by Chapter 498, Acts of the Forty-fifth Legislature, to provide that premiums on official bonds for the county treasurers, county auditors, county road commissioners, county school superintendents, hide and animal inspectors, and their deputies, shall be paid from county funds; and declaring an emergency."

Section 3 of the above mentioned Act provides:

"The fact that the provisions of this act are necessary to remedy a discrimination against certain county officials in the matter of payment of costs on premiums on bonds for themselves and for their deputies creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

Section (a) of House Bill No. 524, supra, reads in part as follows:

"(a) At the close of each month in his tenure of office, each officer named herein who is compensated on a fee basis shall make, as part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office such as stationery, stamps, telephone, premiums on officials' bonds including the cost of surety bonds for his deputies, premium on fire, burglary, theft, robbery insurance protecting public funds, traveling expenses, and other necessary expenses; provided, that in addition to the officers named herein, the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector shall likewise make a report on the premiums on officials' bonds, including the cost of surety bonds for any deputies, and said premiums shall

be subject to payment out of the fees of said office, as herein otherwise provided for the officers named; and provided further that if any of the officers so designated are on a salary rather than a fee basis, then all such bond premiums for officers and their deputies shall be paid from the General fund of the county. . . "(Underscoring ours)

Section (b) of the above mentioned act provides in part:

"Each officer named in this Act, where he receives a salary as compensation for his services, . . . provided that expenses incurred for premiums on officials' bonds for the county treasurer, county auditor, county road commissioners, county school superintendent and the hide and animal inspector, including the cost of surety bonds for any deputies of any such officers, may be also included, and such expenses to be passed on, predetermined and allowed in the time and amount, as nearly as possible by the Commissioners' Court once each month for the ensuing month. . . All such approved claims and accounts shall be paid from the Officers Salary Fund unless otherwise provided herein."

Johnson County has a population of 30,361 inhabitants according to the 1940 Federal Census and, therefore, all the county officials of said county must be compensated on an annual salary basis as required by Section 13 of Article 3912e, Vernon's Annotated Civil Statutes.

It seems clear that Section (a) applies to those county officials who are compensated on a fee basis and to the county road commissioners and the county school superintendent and the county auditor, who are compensated on an annual salary basis in fee counties, and that the provision in said Section (a) which provides "provided further that if any of the officers so designated are on a salary rather than a fee basis, then all such bond premiums for officers and their deputies shall be paid from the General Fund of the county" only applies to such officers in fee counties and has no application whatsoever to those county officials

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in counties where all of said county officials are compensated on an annual salary basis. Therefore it is our opinion that the premiums on bonds of the county treasurer, county auditor and county road commissioners of Johnson County must be paid out of the Officers Salary Fund, "unless otherwise provided." We fail to find any other provision in said Section (b) providing that said premiums shall be otherwise paid. Therefore, as above stated, it is our opinion that the premiums on the bonds of the county treasurer, county auditor and county road commissioners of Johnson County must be paid out of the Officers Salary Fund.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED NOV 22 1911
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