



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Martelle McDonald
District Attorney
Big Spring, Texas

Dear Sir:

Opinion No. O-4635
Re: Refund of moneys to county re-
ceived by commissioners under
unconstitutional act.

Your request for opinion has been received and care-
fully considered by this department. We quote from your re-
quest as follows:

"Under date of March 21, 1942, I requested
an opinion from your department with respect to
the above act of the 47th Legislature, and there-
after I was advised that such law was unconsti-
tutional. I have so advised the members of the
Commissioners Court of Martin County.

"After receipt of your opinion this question
arises, namely that the money previously drawn
under the provisions of this act by the commis-
sioners must or must not be paid back to the
county. I have advised the members that have
drawn this money that since the law is unconsti-
tutional they must pay the money back. They say
that before they pay they must have an opinion
from your department bearing upon the question
raised.

"Will you please advise me about this matter."

Opinion No. O-4162 of this department, addressed to
you, dated April 1, 1942, held House Bill 744 of the 47th
Legislature unconstitutional. This act was a local act pro-
viding \$50.00 per month traveling expenses for the county
judge and county commissioners. One section of the act ap-
plied to Martin County, Texas, alone.

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Under the authorities cited and upon the reasoning of opinions Nos. 0-3351 and 0-4431 of this department, copies of which are enclosed herewith for your information, it is our opinion that the members of the commissioners' court of Martin County who had received moneys from Martin County under the above described unconstitutional act would be liable for a refund of all such moneys received by them from the date they were advised of its unconstitutionality by either the county attorney, district attorney or Attorney General of Texas.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Wm. J. Fanning*

Wm. J. Fanning
Assistant

WJF:CC

Gerald Mann

