



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable W. T. Hair
Assistant County Attorney
Winkler County
Kermit, Texas

Dear Sir:

Opinion No. 0-5390
Re: Salaries of chief deputy and
other deputy sheriffs of
Winkler County, and related
matters.

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

"Winkler County, Texas, has a population of 6,141, according to the last Federal Census, an assessed valuation of \$18,000,000.00, and is just a West Texas Oil Field, with the town of Kermit its County Seat and more or less in the vicinity of two or three Army Bases.

"The Sheriff has two deputies on the outside to help him, and only one acting constable in the county, one of the deputies is a man about seventy five years of age on a salary of \$125.00 per month, the other deputy is on a salary of \$150.00 per month, in his office he has a lady as chief deputy on a salary of \$150.00 per month and two clerks on salaries of \$125.00 per month each.

"The sheriff is confronted with this proposition, both deputies on the \$150.00 salary has resigned unless they can be paid \$200.00 per month each and the clerks have also resigned unless they can be paid \$150.00 per month each: There are no other persons that can be had to take their places and the sheriff doesn't have as much help with the

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force he now has as he needs. Hence he has applied to the County Commissioner's Court for authority to raise the salaries to the above mentioned figures, and in turn the Commissioners have requested an opinion as to their authority in authorizing the salaries to be raised, from the County Attorney's Office.

"Under Article 3902, Vernon's Statutes Act. 1939, we find the following:

"(I) In counties having a population of twenty five thousand (25,000) or less inhabitants, first assistant or chief deputy not to exceed Eighteen Hundred (\$1800.00) Dollars per annum; other assistant deputies or clerks not to exceed Fifteen Hundred (\$1500.00) Dollars per annum each."

"There is no doubt but that Winkler County comes immediately within the purview of the above quoted statute and the said Commissioners' has been advised by the undersigned that such salaries can not be raised from what they are now; that if they should take the COW by the horns and raise these salaries that they would jeopardize their own interest, violate the law and become liable on their bonds should the matter be litigated, and further advised that the law is already being violated by having two deputies on a salary of \$150.00 per month each.

"The Commissioners' after being advised as above stated, ask the further question.

"Can Winkler County pay in addition to Statutory salaries the with-holding tax or the 20% pay-as-you-go tax and not thereby violate the law'

"which in substance would mean to evade the law and pay from ten to twenty dollars more salary per month than is now being paid.

"To this question the undersigned has advised the Commissioners'.

"That it can not legally be done.'

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"And for the third or last question the Commissioners' further ask.

"If it were legal to raise salaries, could it be done without first obtaining permission from the WBL. or some such Board."

". . . ."

Section 1 of Article 3902, V. A. C. S., clearly applies to Winkler County. The article is plain and unambiguous. The salary of the chief deputy sheriff of Winkler County cannot legally exceed \$1800.00 per annum, nor can it exceed \$150.00 per month (12 months at \$150.00 per month makes \$1800.00). There can be but one chief deputy. The salaries of other deputy sheriffs and/or clerks of Winkler County cannot exceed \$1500.00 per annum, nor can such salaries exceed \$125.00 per month (12 months at \$125.00 makes \$1500.00).

It is our opinion that you have correctly answered questions 1 and 2.

Having held that the salaries inquired about cannot exceed the limit set out in Section 1 of Article 3902, V.A.C.S., it becomes unnecessary to answer question 3.

Very truly yours

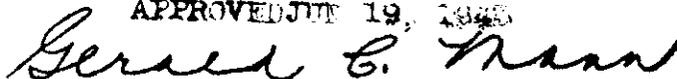
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By 

Wm. J. Fenning
Assistant

WJF:db

APPROVED JUL 19, 1945



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