



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

Mr. B. F. Walters
County Auditor, Smith County
Tyler, Texas

Dear Sir:

Opinion No. O-5494
Re: Audit of expenditures by
Smith County in operation
of City-County Health Unit
and City-County Child
Welfare Unit.

Thank you for your letter of August 19th, in response to ours of the 17th, requesting certain additional information in order that we might reply to your request of July 24th for the opinion of this department. As we understand your request contained in this correspondence, you desire to be advised what assurance, if any, you are entitled to receive in approving claims against appropriations by Smith County in connection with the City-County Health Unit and the City-County Child Welfare Unit that the moneys have been spent for the purposes of the appropriations.

You call our attention to the fact that \$7,800 has been appropriated by the Commissioners' Court for "Travel Expenses" and that the Commissioners' Court has also approved monthly payments of substantial sums to the City-County Child Welfare Unit. Your problem is concerned with what evidence you are entitled to receive in performing your duties in auditing and approving claims that the moneys have been spent only for the purpose of their appropriation.

It is an elementary rule of law that before a commissioners' court may undertake any project it must be able to point to statutory authorization for its action. Commissioners' Court v. Wallace, 15 S. W. (2d) 535; 11 Tex. Jur., page 563.

We have been unable to find any statutory authorization for Smith County to cooperate with the City of Tyler in the maintenance of a City-County Health Unit and we advise you that for the reasons given in Opinion No. O-4985, a copy of which is herewith enclosed, Smith County has no such authority.

Mr. B. T. Walters, page 2

We have also been unable to find statutory authorization for Smith County to cooperate in the formation and maintenance of a joint City-County Child Welfare Unit. Section 4 of Article 695a, V.A.C.S., authorizes the commissioners' court to appoint seven persons who shall constitute a Child Welfare Board for the county, and Section 40 of Article 695c, V.A.C.S., authorizes the commissioners' court to appropriate from its General Fund, or any other available fund, money for the administration of such a County Child Welfare Board, but neither that article nor Article 695a authorizes the commissioners' court either to establish or make appropriations for the joint activities of the city and county.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Jas. D. Smullen
 Jas. D. Smullen
 Assistant

JDS:EP

Encl.

APPROVED SEP 2, 1943

Gerald C. Mann
 ATTORNEY GENERAL OF TEXAS

