



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL.

Mr. J. D. Looney
County Auditor, Bowie County
Boston, Texas

Dear Sir:

Opinion No. 0-5980
Re: Construction of Section 2
of Article 7336f, Vernon's
Annotated Civil Statutes.

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

"The collector of taxes of this county, contracted with a party to compile the delinquent tax records of the county. The contractor secured the help of the collector's force to help with the compiling of said records, after regular office hours.

"Under the Officers' Salary Act, are the employees of office entitled to compensation or should it go to the Officers' Salary Fund."

Section 2 of Article 7336f, Vernon's Annotated Civil Statutes, reads as follows:

"Sec. 2. Any county having as many as two years' taxes delinquent which have not been included in the delinquent tax record, the collector of taxes shall within two years from the effective date of this Act, cause to be compiled a delinquent tax record of all delinquent taxes not barred by this Act; the delinquent record shall be examined by the commissioners' court and the Comptroller or governing body, corrections may be ordered, and when found correct and approved by them, payment for the compilation thereof shall be authorized at actual cost to the tax collector, proportionately

from each the State and county taxes or municipal taxes, first collected from such record, said cost in no case to exceed a sum equal to five (5¢) cents per item or written line of the original copy of such record and in no event shall any compiling costs be charged to the taxpayer. The delinquent tax record when approved, shall be prima facie evidence of the delinquency shown thereon, and when there shall be as many as two years of delinquency accumulated which are not shown on the record a recompilation, or a two year supplement thereto shall then be made as herein provided. Tax collectors shall cause to be compiled like records of taxes delinquent due any district for which they collect from tax rolls other than the State and county rolls, and when approved by the governing body of the particular district, the cost of same shall be allowed in the manner herein provided; Acts 1935, 44th Leg., p. 355, Ch. 128."

Opinion No. O-4644 of this department construes the above quoted article. We held specifically in Opinion No. O-4644 that the items in question were not fees of office, and I am enclosing a copy of said opinion for your information.

We must assume that the public officials acted in good faith and that this contract is not a subterfuge. Article 7336f, Vernon's Annotated Civil Statutes, provides that the duty is upon the tax assessor and collector to compile this record, if he and his deputies have available time, but if such time is not available, he is authorized under the statutes to employ a third person to compile this record at an expense not to exceed five cents per line.

It follows that the deputies would be entitled to personally retain such compensation as is provided in the contract between the deputies and the person with whom the tax assessor-collector contracted with to compile said list, provided, of course, that the deputies render such service at times other than their regular office hours.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

W. P. Watts

W. P. Watts
Assistant



APPROVED BY *[Signature]*