



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable John T. Hutchison
County Attorney of Lamar County
Paris, Texas

Dear Sir:

Opinion No. 0-6161

Re: Whether the Commissioners' Court of Lamar County is legally authorized to contribute \$100.00 per month as part pay of the service officer, who is working under the sponsorship of the American Legion, whose principal duties are to give aid and assistance to returning soldiers, and a related matter.

Your letter of August 10, 1944, requesting the opinion of this department on the questions stated therein, is as follows:

"Will you please give me an opinion upon the following questions:

"1. Is the Commissioners' Court of Lamar County, Texas, authorized to vote a contribution of \$100 a month towards the pay of a service officer who is working under the sponsorship of the American Legion, whose principal duties are to give aid and assistance to returning soldiers?

"2. If the Commissioners' Court is authorized to vote said contribution, then is the county auditor of Lamar County authorized to pay \$100 a month to said service officer of the American Legion, and if so what fund does he pay it out of?"

Section 1, of House Bill No. 368, Acts of the 48th Legislature, Regular Session, 1943, provides:

officer is a public necessity in the dispatch of county business, it shall, by a majority of the full membership thereof, create and establish a veterans' county service office. The county commissioners' court shall appoint such veterans to such service office with such assistant veterans to such service office as shall be deemed necessary by the county commissioners' court. Such veteran county service officer, and/or assistant veteran county service officer, shall receive a salary not to exceed \$100.00 per month for the principal officer and not more than \$50.00 per month, fixed by the county commissioners' court, to be paid in equally monthly installments out of the general fund of the county, and all salaries, travel and other expenses of such office shall be paid on order of the commissioners' court."

The act further prescribed the qualifications of veterans' county service officer, and/or assistant veterans' county service officer, the duties of such officers and the terms of office, etc.

You do not state in your letter whether or not the Commissioners' Court of Lamar County has determined that a veterans' county service officer is a public necessity in the dispatch of county business and appointed a veterans' service officer under the provisions of House Bill No. 100, supra. If the County Commissioners' Court of Lamar County has appointed a veterans' county service officer, and/or assistant veterans' county service officer under the above mentioned act, the maximum compensation of the veterans' county service officer cannot legally exceed \$100.00 per month and the maximum compensation of any assistant veterans' county service officer cannot legally exceed \$50.00 per month.

The above mentioned act specifically provides that the compensation of such officers shall be paid out of the general fund of the county and if the commissioners' court has appointed such officer or officers, then the payment of the compensation of such officers, not to exceed the above mentioned amounts, out of the said general fund of the county would be proper.

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If the Commissioners' Court of Lamar County has not appointed a veterans' county service officer, and/or assistant veterans' county service officer, under House Bill 368, supra, then the commissioners' court of said county would have no legal authority to contribute \$100.00 per month as part compensation of a service officer who is working under the sponsorship of the American Legion, when such officers were not appointed in compliance with the foregoing act.

It is well established in this State that the Commissioners' court has only such power and authority which are expressly given by the statute and the Constitution of this State or such power and authority necessarily implied therefrom.

We direct your attention to our opinions, Numbers 0-5675 and 0-5969, involving the construction of House Bill No. 368, supra, as relating to the questions involved in such opinions. We enclose copies of these opinions for your convenience.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (s) Ardell Williams
Assistant

AW:ft:fb

APPROVED AUG 25, 1944
(s) Geo. P. Blackburn
(Acting) ATTORNEY
GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
BY (s) BMB, CHAIRMAN