



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Charles R. Martin  
County Auditor  
Harrison County  
Marshall, Texas

Dear Sir:

Opinion No. 0-6471

Re: Whether Commissioners' Court  
of a county can legally em-  
ploy a person, (pay his sal-  
ary, traveling expense, etc.)  
to go over the county for the  
purpose of conducting demon-  
strations on rat or gopher  
control, and a related ques-  
tion.

Your request for our opinion on the hereinabove  
captioned matter has been received by this department. We  
quote from your letter as follows:

"Article 190, Vernon's Annotated Civil  
Statutes, provides for the purchase of poison  
for certain animals, including gophers, rats  
etc., by the County, payable from the general  
fund, and the article further recites that the  
county may furnish this poison with or without  
charge to the citizens of the county.

"Article 164, RCS of 1925, as amended provides:

"The Commissioners' Court of any county of  
this state is authorized to establish and conduct  
co-operative demonstration work in agriculture and  
Home Economics in co-operation with the Agricul-  
tural and Mechanical College of Texas, upon such  
terms and conditions as may be agreed upon by the  
Commissioners' Court and the Agents of the Agricultural

and Mechanical College of Texas; and may employ such means, and may appropriate and expend such sums of money as may be necessary to effectively establish and carry on such demonstration work in Agriculture and Home Economics in their respective counties.'

**"QUESTION: Can the Commissioners' Court of a county legally employ someone to be paid a salary to go over the county, including traveling expense, or the purchase of an automobile for said purpose, demonstrating on rat or gopher control, or go in with a City jointly for this purpose of poisoning rats etc., under Article 190 and Article 164, above mentioned? If these articles do not cover this expenditure, if there is any other statute governing same, would appreciate your advice in this matter."**

The courts of Texas have repeatedly held that county commissioners' courts may exercise only such authority as is conferred upon them by the Constitution and Statutes of this State, either by express terms or by implication. There are many authorities to this effect, and we cite the following:

Article 5, Section 18, Texas Constitution;  
Article 2351, Revised Civil Statutes of Texas;  
Texas Jurisprudence, Vol. 11, pages 563-566;  
Bland vs. Orr, 39 S. W. 558;  
Nunn-Warren Publishing Company vs. Hutchinson  
County, 45 S. W. (2d) 651;  
Hogg v. Campbell, 43 S. W. (2d) 515;  
Landman v. State, 97 S. W. (2d) 264;  
El Paso County v. Elam, 106 S. W. (2d)  
2791;  
Dobson v. Marshall, 118 S. W. (2d) 621;  
Mills County v. Lampass County, 40 S. W.  
404

After a careful study of the Constitution and Statutes of this State, we find no provision authorizing the Commissioners' Court to employ a person to conduct demonstrations on rat and gopher control and pay him a salary, etc., out of the county funds.

Article 190 of Vernon's Annotated Civil Statutes is plain and unambiguous and it does not give the commissioners' court authority, either by express terms or implication, to make the expenditures about which you inquire.

Hon. Charles A. Martin, page 3

Also, you quote Article 164 of Vernon's Annotated Civil Statutes, and in discussing this statute in a previous opinion (0-2498) this department has said:

"The above quoted statute authorizes the county commissioners' court to establish and conduct co-operative demonstration work in agriculture in co-operation with the Agricultural and Mechanical College of Texas, upon such terms and conditions as may be agreed upon by the commissioners' court and the agents of the Agricultural and Mechanical College of Texas. Agricultural agents are employed by the counties under said statute."

After a careful analysis of Article 164, supra, and our prior opinion, we do not find anything contained therein that would justify the county commissioners' court in employing a person such as the one about which you inquire.

In view of the foregoing, it is the opinion of this department that the county commissioners' court is not authorized to employ a person to conduct demonstrations on rat and gopher control and pay him a salary and traveling expenses out of county funds, or other similar expenses. In view of this holding, it necessarily follows that a joint undertaking with a city would not authorize the commissioners' court to expend money for the purpose of poisoning rats and gophers. In other words, the law does not permit the commissioners' court to expend county funds for the purposes about which you inquire, regardless of whether the expenditures are made solely in behalf of the county or jointly in connection with a city or cities.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By

*J. C. Davis, Jr.*  
J. C. Davis, Jr.  
Assistant

JCD/JCP

APPROVED JUL 7, 1945  
*Charles A. Martin*  
FIRST ASSISTANT  
ATTORNEY GENERAL

