



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Hon. T. Gilbert Adams
County Attorney
Jasper County
Jasper, Texas

Dear Sir:

Opinion No. O-7443

Re: Whether the Commissioners' Court has the authority to give supplemental payment to school bus drivers from a county fund, for additional mileage required by reason of bridge over his regular route being temporarily out.

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

"Does the County Commissioners' Court have the authority to order supplemental payment to an Independent School District School Bus Driver, from any County Fund, for additional mileage that he is required to drive by reason of a bridge over his regular route being temporarily out while such road is under construction?"

"The facts, as I understand them, are as follows: A County road in Jasper County, was designated as a State Approved Farm to Market Road and jurisdiction of the road and its maintenance was transferred by the Commissioners' Court of Jasper County to the State Highway Department. The Highway Department has let a contract for hard surfacing this road to a private contractor. The Contractor has begun the work and has taken out a bridge on the road for the purpose of constructing a new one, and in doing so, did not build a detour bridge for the traffic, and especially the School Bus of the Jasper Independent School District. There is a road on the other side of the bridge that leads into a

Hon. T. Gilbert Adams - Page 2

State Highway and it is necessary that the School Bus get part of its children by driving out the State Highway and crossing over to the County Farm to Market Road, beyond the bridge and then return the same way and then drive out the farm to market road and back, picking up the children on this side of the bridge that is out. The officials of the School District seem to be of the opinion that it is the duty of the County to supplement the School Bus Driver's salary sufficient to justify this additional driving, while this bridge is out. I am unable to find any law whereby such expenditure can be made and have concluded that such expenditure would be illegal."

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;
 Mann-Warren Publishing Company vs. Hutchison
 County, 45 S. W. (2d) 651;
 Regg v. Campbell, 48 S. W. (2d) 515;
 Landman v. State, 97 S. W. (2d) 264;
 El Paso County v. Kim, 106 S. W. (2d)
 2791;
 Dobson v. Marshall, 118 S. W. (2d) 621;
 Mills County v. Lampasas County, 40 S. W.
 404.

After a careful study of the Constitution and statutes of this State, we can find no provision authorizing the Commissioners' Court to pay from any county fund to an Independent School District bus driver for additional mileage that he is required to drive by reason of a detour, so your question is answered in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Jno. C. Knorpp*
 Jno. C. Knorpp
 Assistant

APPROVED
 OPINION
 COMMITTEE

BY *BLW3*
 CHAIRMAN

JCK:dja

Enclosure