



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

Apr. 4, 1947

Hon. W. P. Herms, Jr.
County Auditor
Waller County
Hempstead, Texas

Opinion No. V-122

Re: Authority of the Commissioners' Court to allow the County Auditor extra compensation for keeping certain records relative to road and bridge expenditures under the facts submitted.

Dear Sir:

Your request for an opinion from this Department on the above subject matter is as follows:

"Road District No. 7, Waller County, Texas voted a \$500,000 bond issue for road purposes, bonds were sold December 1945, contract for road construction was let in June 1946, and expenditure of said funds has proceeded since that date.

"In addition to the regular ledgers and records kept by me, as County Auditor, at the request of the Commissioners' Court, I have kept detailed records on the expenditure of each road, as such approximate allocations were set up by the Commissioners' Court. These allocations of amounts to be spent for each road, however, are not set up in the bond order, but merely recorded by Commissioners' Court as a guide in expenditure of funds.

"There are 19 road divisions; and, as stated above, I have kept a detailed ledger on the amounts spent for each road and what said amounts were spent for--this in addition to regular ledgers required.

"The question has arisen as to:

- "1. Whether Commissioners' Court has authority to allow me extra compensation

for keeping Road District No. 7 records which are required of me as Auditor. (Art. 1672 R.C.S. relates to this question)

"2. Whether Commissioners' Court has authority to allow me compensation for extra ledgers and records which they desire, but which records are not required of me as Auditor.

"I shall appreciate your opinion as to whether I am authorized to approve warrants for compensation emanating from either of the above two services."

Waller County has a population of 10,280 inhabitants according to the 1940 Federal Census and an assessed valuation of \$21,540,365.00 according to the 1946 tax rolls. The county auditor of Waller County is compensated on a salary basis and his compensation is governed by Article 1645, V.C.S. (Acts 1941, 47th Legislature, page 1331, Chapter 601.)

Article 1651 provides:

"The auditor shall have a general oversight of all books and records of all the officers of the county, district or State, who may be authorized or required by law to receive or collect any money, funds, fees or other property for the use of, or belonging to, the county; and he shall see to the strict enforcement of the law governing county finances."

Article 1656 provides:

"He shall prescribe and prepare the forms to be used by all persons in the collection of county revenues, funds, fees and all other moneys, and the mode and manner of keeping and stating their accounts, and the time, mode and manner of making their reports to the auditor, also the mode and manner of making their annual report of office fees collected and disbursed, and the amount refunded to the county in excess of those allowed under the general fee bill law. He shall have power to adopt and enforce such regulations not inconsistent with the constitution and laws, as he may deem essential to the speedy and proper collection, checking and accounting of the revenues and other funds and fees belonging to the county."

We quote the following from our Opinion No. 0-3001:

"The compensation of public officers is fixed by the Constitution and statutes. An officer may not claim or receive any money without a law authorizing him to do so, and clearly fixing the amount to which he is entitled. An officer is not entitled to any compensation in addition to that which has been fixed by law for the performance of the duties of his office, even though the compensation so fixed is unreasonable or inadequate. He may be required by law to perform specific services or discharge additional duties for which no compensation is provided. The obligation to perform such services is imposed as an incident to the office and the officer by his acceptance thereof is deemed to have engaged to perform them without compensation. (Terrell v. King, 14 S. W. (2d) 786; McCalla v. City of Rockdale, 246 S. W. 654; Texas Juris., Vol. 34, p. 531.)" (Underscoring ours)

We know of no provision in the statutes of this State providing for extra compensation for performance of the duties outlined in your request. The Commissioners' Court is a Court of limited jurisdiction and has only such powers as are conferred upon it by the Constitution and statutes of this State by express terms or by implication. Von Rosenberg v. Lovett, 173 S. W. 508; Miller v. Brown, 216 S. W. 452; Howard v. Henderson County, 116 S. W. (2d) 479; Galveston H. & S. A. Railway Company v. Uvalde County, 167 S. W. (2d) 1084; 11 Tex. Jur. 564.

We know of no provision in the Constitution or statutes of this State which confers upon the Commissioners' Court the power to expend county funds for the purpose of granting extra compensation to the County Auditor for the performance of those duties outlined in your request.

It is, therefore, the opinion of this Department that the Commissioners' Court of Waller County is not authorized to allow extra compensation to the County Auditor under the facts submitted.

SUMMARY

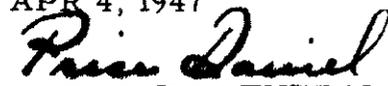
The Commissioners' Court of Waller County is not authorized to allow extra compensation to the County Auditor for keeping Road District No. 7 records nor for keeping detailed records of the expenditures upon each road of the county.

Yours very truly,
ATTORNEY GENERAL OF TEXAS

By


John Reeves
Assistant

APPROVED
APR 4, 1947


ATTORNEY GENERAL
OF TEXAS

JR:djm:sl