



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

July 22, 1949.

Hon. John A. Menefee  
County Attorney  
Upton County  
Rankin, Texas

Opinion No. V-859.

Re: The present maximum com-  
pensation of the County  
Auditor of Upton County.

Dear Sir:

Reference is made to your recent request which reads in part as follows:

"At the request of the District Judge of the 83rd District Court, I am requesting an opinion concerning the maximum salary that the County Auditor of Upton County, Texas, may be paid. Upton County has a population of less than 20,000 and a taxable valuation of more than fifteen million."

Article 1646, V.C.S., provides in part as follows:

"When the Commissioners' Court of a County not mentioned and enumerated in the preceding Article shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in the preceding Article, who shall qualify and perform all the duties required of County Auditors by the laws of this State, and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county,

...

Under the provisions of 1646 supra, the County Auditor was entitled in 1948 to an annual salary of not more than the annual total compensation allowed or paid the Assessor-Collector of Taxes. Under the provisions of 3912e-12, V.C.S., the Assessor-Collector in Upton County could have been paid the sum of \$5400.00 per annum. And according to the facts presented he was allowed the maximum salary. Therefore, in 1948 the maximum salary allowed the County Auditor under the law was \$5400.

Section 1 of Senate Bill 92, Acts of the 51st Legislature, provides as follows:

"Section 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the officer justify the increase, to enter an order increasing the compensation of the precinct, county and district officers, or either of them, in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948, whether paid on fee or salary basis; provided, however, the members of the Commissioners Court may not raise the salaries of any of such Commissioners Court under the terms of this Act without raising the salary of the remaining county officials in like proportion."

Under the plain provisions of Senate Bill 92, the Commissioners' Court is authorized to grant an increase of \$1350 (25% of \$5400) to the county officers. In the case of American Indemnity Co. v. Red River Nat. Bank, 132 S.W.2d 473 (Tex. Civ. App. 1939, writ dismissed), it was held that the County Auditor "by the statute is made an officer of the County." Therefore, if the County Auditor was receiving \$5400 prior to the effective date of Senate Bill 92, the maximum salary which he may now receive is \$6,750 per annum. We call your attention to Section 4 of Senate Bill 92 which must be complied with before any increase may be granted. Furthermore, the provisions of Article 689a-11, V.C.S., must be followed. Any increase in compensation for the year 1949 must be in the same proportion as the balance of the year relates to the total annual increase that may be made under Senate Bill 92. (A. G. Opinion No. V-231).

Hon. John A. Menefee, page 3 (V-859)

SUMMARY

The maximum salary which may be paid the County Auditor of Upton County is \$6750 per annum. Article 1646, V.C.S.; Senate Bill 92, Acts of the 51st Legislature, 1949.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By



Bruce Allen  
Assistant

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APPROVED



FIRST ASSISTANT  
ATTORNEY GENERAL