



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

September 18, 1951.

PRICE DANIEL
ATTORNEY GENERAL

Overruled by MS-341
Where Conflicts

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-1286.

Re: Compensation of members of the
judiciary for the first six days
of September, 1951, in the light
of House Bill 426 and Senate
Bills 79, 116, and 467, Acts 52nd
Leg., R.S. 1951.

Dear Sir:

Your request for an opinion reads, in part, as
follows:

"Senate Bill No. 116, Acts of the 52nd
Legislature, provides for, with exceptions,
the suspension of statutory salary of State
officials and employees.

"Senate Bill No. 79 changes the statu-
tory compensation of the members of the Su-
preme Court, Court of Civil Appeals, and
District Judges.

"H. B. No. 426, the biennial appropria-
tion bill, provides for salary increases for
state officers and employees in excess of the
amount set in the Legislative enactment which
created the positions.

"Senate Bill No. 467 appropriates funds
to supplement amounts appropriated to the Ju-
diciary of this State for the purpose of pay-
ing the amounts provided in Senate Bill No.
79.

"An examination of Senate Bill Nos. 79,
116, and 467 reveals they were passed by a
viva voce vote.

"QUESTION: 1. When do Senate Bill Nos. 79, 116, and 467 become effective?

2. If you hold they become effective 90 days after adjournment, what rate of compensation would be paid the persons involved between August 31, 1951, and the date the bills become effective?"

Senate Bill 79 passed the Senate April 30, 1951, by a viva voce vote and passed the House May 17, 1951, by a vote of 105 yeas and 29 nays. Acts 52nd Leg., R.S. 1951, ch. 386, p. 669. Senate Bill 116 passed the Senate May 22, 1951, by a viva voce vote and passed the House June 6, 1951, by a vote of 110 yeas and 1 nay. Acts 52nd Leg., R.S. 1951, ch. 455, p. 811. Senate Bill 467 passed the Senate May 29, 1951, by a viva voce vote and passed the House June 7, 1951, by a vote of 100 yeas and 19 nays. Acts 52nd Leg., R.S. 1951, ch. 477, p. 852. The Fifty-second Legislature adjourned June 8, 1951. Because these bills did not receive the necessary two-thirds vote to make them immediately effective, the answer to your first question is that each of these Acts became effective September 7, 1951, ninety days after adjournment of the Legislature. Tex. Const. Art. III, Sec. 39.

With respect to your second question: Since none of these Acts became effective until September 7, 1951, we must look to other statutes and appropriations to determine the rate of compensation of members of the judiciary mentioned in Senate Bill 79 and Senate Bill 467 for the first six days of the biennium beginning September 1, 1951.

Article 6819a-6, Vernon's Civil Statutes, codified from House Bill 207, Acts 51st Leg., R.S. 1949, ch. 328, p. 614, provides:

"From and after August 31, 1949:

"(a) The Justices of the Supreme Court of the State of Texas and the Judges of the Court of Criminal Appeals and Commissioners of the State of Texas shall each be paid an annual salary of Twelve Thousand Dollars (\$12,000);

"(b) The Justices of the several Courts of Civil Appeals of the State of Texas shall each be paid an annual salary of Ten Thousand Dollars (\$10,000);

"(c) The Judges of the several District Courts of the State of Texas and of the Criminal District Courts of this State shall each be paid an annual salary of Seven Thousand Dollars (\$7,000);

"(d) The salaries of all the Justices and Judges in this Section shall be paid in equal monthly installments;

"(e) Each District Judge in this State shall be paid an annual salary of Seven Thousand Dollars (\$7,000) from State funds, provided that no District Judge shall receive as supplemental pay thereto from any county funds a sum in excess of Twenty-nine Hundred Dollars (\$2900) per annum for services rendered as a member of a Juvenile Board."

The compensation of members of the Supreme Court, the Court of Criminal Appeals, the Commissioners to the Court of Criminal Appeals, members of the Courts of Civil Appeals and the judges of the District Courts for the first six days of the biennium beginning September 1, 1951, is governed by Article 6819a-6, to be paid from the appropriation to the judiciary contained in the general appropriation bill (Art. 1, Sec. 1, H.B. 426, Acts 52nd Leg., R.S. 1951, ch. 491, p. 1228, at p. 1231), which, of course, became effective September 1, 1951.

On and after September 7, 1951, the compensation of members of the respective courts and of the Commissioners to the Court of Criminal Appeals is governed by Senate Bill 79 and is to be paid from the appropriations to the judiciary in the general appropriation bill and the supplemental appropriation contained in Senate Bill 467. Senate Bill 116, which suspends certain salary statutes, does not apply to Senate Bill 79, because it is clear that the Legislature intended that Senate Bill 79 would govern the salaries of the respective members of the judiciary and that Senate Bill 116 would apply to all other officers and employees within its purview. Although Senate Bill 79 was first enacted, it is

to be regarded as an exception to Senate Bill 116. Wright v. Broeter, 145 Tex. 142, 196 S.W.2d 82 (1946) This view is sustained not only by the rules announced in the decision in the Broeter case but also by the fact that Senate Bill 467, making an appropriation to supplement the appropriations to the judiciary contained in Article I of House Bill 426, was passed by the Senate May 29, 1951, and by the House June 7, 1951, the day before the Legislature adjourned. In passing this appropriation bill the Legislature is presumed to have acted deliberately and purposefully and not to have intended an absurd or useless thing. Southwestern Gas & Electric Co. v. State, 190 S.W.2d 132 (Tex.Civ.App. 1945, affd. 145 Tex. 24, 193 S.W.2d 675, 1946); 39 Tex. Jur. 242, 245, Statutes, Secs. 129, 131.

Therefore, for the first six days of September, 1951, the salaries of members of the judiciary will be one-fifth of the monthly salary provided in Article 6819a-6 and Article I of House Bill 426; and for the remainder of the month, the salaries will be four-fifths of the increased monthly salary fixed by Senate Bill 79.

SUMMARY

The salary of each member of the judiciary for the first six days of September, 1951, will be one-fifth of his monthly salary as provided in Article 6819a-6, V.C.S. and in Article I of House Bill 426, Acts 52nd Leg., R.S. 1951, ch. 499, p. 1228, at p. 1231; and for the remainder of that month, his salary will be four-fifths of the increased monthly salary as fixed by Senate Bill 79, Acts 52nd Leg., R.S. 1951, ch. 386, p. 669, payable out of the appropriations contained in Article I of House Bill 426 and Senate Bill 467, Acts 52nd Leg., R.S. 1951, ch. 477, p. 852.

APPROVED:

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BWB:wb

Yours very truly,

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By
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