



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

June 9, 1953

Hon. Allan Shivers
Governor of Texas
Austin, Texas

Letter Opinion No. MS-57

Re: Constitutionality of House
Bill 882.

Dear Governor:

You have requested an opinion on the constitutionality of House Bill 882 of the 53rd Legislature, fixing the salaries of Criminal District Attorneys or County Attorneys performing the duties of District Attorneys and the County Attorneys "In all counties in this State having a population of more than ninety thousand (90,000) persons, according to the last preceding Federal Census, and not more than one hundred and forty-five thousand (145,000) population, according to such Federal Census, and with a taxable valuation for county purposes of not less than One Hundred Fifteen Million Dollars (\$115,000,000), according to the tax rolls as prepared by the tax assessor-collector of the respective counties for the year 1952. . ."

It is noted that House Bill 882 confines its application absolutely to counties which have a taxable valuation of not less than One Hundred Fifteen Million (\$115,000,000) Dollars "for the year 1952." Section 56 of Article III of the Constitution of Texas prohibits the Legislature from enacting any local or special law regulating the affairs of counties. The act is so constructed that it is absolutely impossible for any other county in the State ever to be included within the terms or under the provisions of the act. The act is confined in its application to apply to certain counties only just as clearly and just as effectively as if the stipulations with reference to valuation had been omitted and named the counties therein in its stead.

House Bill 882 falls squarely within the prohibition pointed out in City of Fort Worth v. Bobbitt, 122 Tex. 14, 36 S.W.2d 470 (1931) in which the Supreme Court held an act of the Legislature void when its provisions were limited to cities according to the United States census of 1920 containing not less than 106,000 and not more than 110,000 inhabitants. It is therefore our opinion that House Bill 882 is unconstitutional,

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as it contravenes Section 56 of Article III of the Constitution of Texas.

Yours very truly,

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Attorney General

By
John Reeves
Assistant

JR:am:wb