



**THE ATTORNEY GENERAL  
OF TEXAS**

Gerald C. Mann  
~~XXXXXXXXXXXXXXXXXXXX~~  
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Mr. Quincy Hawkins  
County Auditor  
Henderson County  
Athens, Texas

Dear Sir:

Opinion No. 0-681

Re: Under the facts set forth,  
should the fine and costs  
be turned into the county  
treasurer for the benefit  
of the Salary Fund?

Your request for an opinion on the above stated  
question has been received by this office.

Your letter reads in part as follows:

"In the case of a county that is on the  
Salary Fund System a man is tried and convicted  
in District Court of driving while intoxicated,  
and is fined \$50.00 and costs.

"This fine is paid to the District Clerk  
of this county.

"Under the Salary Fund Law shouldn't this  
fine and costs be turned into the County Treas-  
urer for the benefit of the Salary Fund?"

Article 803 of the Penal Code reads as follows:

"Any person who drives or operates an auto-  
mobile or any other motor vehicle upon any street  
or alley, or any other place within the limits of  
any incorporated city, town, or village, or upon  
any public road or highway in this State while  
such person is intoxicated, or in any degree under  
the influence of intoxicating liquor, shall upon  
conviction be confined in the penitentiary for  
not more than two (2) years, or be confined in  
the county jail for not less than five (5) days

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nor more than ninety (90) days and fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500)."

Article 949, Code of Criminal Procedure, reads as follows:

"Money collected by an officer upon recognizances, bail bonds and other obligations recovered upon in the name of the State under any provision of this code, and all fines, forfeitures, judgments and jury fees, collected under any provision of this Code, shall forthwith be paid over by the officers collecting the same to the county treasurer of the proper county, after first deducting therefrom the legal fees and commissions for collecting the same."

Section 3 of Article 3912e, R. C. S., reads as follows:

"In all cases where the commissioner's court shall have determined that county officers or precinct officers in such county shall be compensated for their services by the payment of an annual salary, neither the State of Texas nor any county shall be charged with or pay to any of the officers so compensated, any fee or commission for the performance of any or all of the duties of their offices but such officers shall receive said salary in lieu of all other fees, commissions or compensation which they would otherwise be authorized to retain; provided, however, that the assessor and collector of taxes shall continue to collect and retain for the benefit of the Officers' Salary Fund or funds hereinafter provided for all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such monies received by him into the fund created and provided for under the provisions of this Act; provided further, that the provisions of this Section shall not affect the payment of costs in civil cases by the State but all such costs so paid shall be accounted for by the officers collecting the same, as they are required under the provisions of this Act to account for fees, commissions and costs collected from private parties."

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Section 5 of Article 3912e reads in part as follows:

"It shall be the duty of all officers to charge and collect in the manner authorized by law all fees and commissions which are permitted by law to be assessed and collected for all official service performed by them. As and when such fees are collected they shall be deposited in the Officers' Salary Fund, or funds provided in this Act..."

Article 6700, R. C. S. of Texas, reads as follows:

"Fines collected for violations of any highway law as set forth in Chapter 1 of Title 13 of the Penal Code, shall be used by the municipality or the counties in which the same are assessed and to which the same are payable, in the construction and maintenance of roads, bridges and culverts therein, and for the enforcement of the traffic laws regulating the use of the public highways by motor vehicles and motorcycles, and to help defray the expense of county traffic officers."

In view of the foregoing statutes, you are respectfully advised that it is the opinion of this department that the costs collected in the case mentioned in your inquiry should be deposited in the Officers' Salary Fund of the county in which such costs were collected and that since Article 002 of the Penal Code appears in Title 13, Chapter I, you are further advised that the fine should be deposited in the General Fund of the county to be expended for the purposes as enumerated in Article 6700 R.C.S.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

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ATTORNEY GENERAL OF TEXAS

APPROVED JUL 12, 1939  
/s/ W. F. Moore  
FIRST ASSISTANT  
ATTORNEY GENERAL

By Ardell Williams  
Ardell Williams  
Assistant

APPROVED  
Opinion  
Committee  
By RWF  
Chairman