



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

June 12, 1939

San Augustine Co,

Honorable Joe J. Fisher
District Attorney
San Augustine, Texas

Dear Sir:

Opinion No. 0-949

Re: Authority of Commissioners' Court to employ stenographer for county attorney to assist in the filing of delinquent tax suits and pay 10% of the delinquent taxes as compensation.

We are in receipt of your letter of June 8, 1939, wherein you request our opinion as to whether the commissioners' court may set aside 10% of the delinquent taxes to pay the salary of a stenographer for the county attorney to assist in the filing of delinquent tax suits.

In view of the language used in your question, we shall assume that it is contemplated that such 10% shall be paid out of the shares of both the county and the state in such delinquent taxes, rather than being paid by the county alone.

Article 7335, Revised Civil Statutes, provides that under certain circumstances a commissioners' court may employ or contract with a competent attorney to enforce or assist in the enforcement of the collection of delinquent state and county taxes for a per cent on the taxes, penalty and interest actually collected. Article 7335a, R.C.S., places certain limitations upon such power to contract. As said by the Commission of Appeals in the case of *Easterwood v. Henderson County*, 82 S.W.(2)85, "the power to provide for the collection of delinquent taxes and prescribe the compensation to be paid for services rendered in that respect resides exclusively in the Legislature. . . . except as given by statute a commissioners' court is powerless to contract in the respects mentioned."

Honorable Joe J. Fisher, June 12, 1939, Page 2

With respect to the diversion of a part of the state's share of delinquent taxes for the payment of compensation for services in collecting such taxes, Articles 7335 and 7335a, R. C. S., are exclusive.

Our answer to your question, therefore, is that 10% of the delinquent taxes, including the shares of both the state and the county, cannot be set aside by the commissioners' court to pay the salary of a stenographer for the county attorney to assist in the filing of delinquent tax suits.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

GRL-MR

APPROVED:

Gerald B. Mann
ATTORNEY GENERAL OF TEXAS

