



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS



**Grover Sellers
Attorney General**

Honorable A. F. Fribble
County Attorney, Mills Co.,
Goldsmith, Texas

Dear Sir:

Opinion No. O-6365
Re: Maximum Compensation of the
County Officials of Mills
County.

We have your letter of January 5, 1945, requesting the opinion of this department regarding the maximum compensation that can be retained by the County Officials of Mills County. Mills County has a population of less than 20,000 inhabitants according to the 1940 Federal Census. The County Officials of said County are compensated on a fee basis rather than an annual salary basis.

Article 3883, Vernon's Annotated Civil Statutes, provides, in part:

"Except as otherwise provided in this Act, the annual fees that may be retained by Precincts, County and District Officers mentioned in this Article shall be as follows:

"1. In counties containing twenty-five (25,000) thousand or less inhabitants County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-four Hundred (\$2400) Dollars each; Justice of the Peace and Constable: Twelve Hundred (\$1200) Dollars each. . . ."

Article 3891, Vernon's Annotated Civil Statutes, reads, in part, as follows:

"Each officer named in this Chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Art. 3883, together with the salaries of his assistants

and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, and shall be disposed of in the manner hereinafter provided.

"In counties containing twenty-five thousand (25,000) or less inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Three Thousand Dollars (\$3000). Precinct officers shall retain one-third until such one-third, together with the amount specified in Art. 3883, amounts to Fourteen Hundred Dollars (\$1,400)."

Article 3897, V.A.C.S., provides:

"Each district, County and Precinct Officer, at the close of each fiscal year (Dec. 31) shall make to the District Court of the County in which he resides a sworn statement in triplicate (on forms designed and approved by the State Auditor), a copy of which statement shall be forwarded to the State Auditor by the Clerk of the District Court of said County within thirty (30) days after the same has been filed in his office, one copy to be filed with the County Auditor, if any; otherwise such copy shall be filed with the Commissioners' Court. Said report shall show the amount of all fees, commissions and compensations whatever earned by said officer during the fiscal year; and secondly, shall show the amount of fees, commissions, and compensations collected by him during the fiscal year; thirdly, said report shall contain an itemized statement of all fees, commissions and compensations earned during the fiscal year which were not collected, together with the name of the party owing said fees, commissions and compensations. Said report shall be filed not later than February 1st following the close of the fiscal year and for each day after said date that said report remains not filed, said officer shall be liable to a penalty of Twenty-five (\$25) Dollars, which may be recovered by the County in a suit brought for such purposes, and in addition, said officer shall be subject to removal from office."

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It will be noted that under the foregoing statutes, the maximum compensation that can be retained by the County Officials of Mills County is Three Thousand Dollars (\$3,000). The maximum compensation of Precinct Officers in said County is Fourteen Hundred Dollars (\$1,400) each. Each District and County Precinct Officer is required to file a sworn statement as required by Article 3897.

The County Judge of Mills County is also the Ex-Officio County Superintendent of said County and the Sheriff performs the duties of County Tax Assessor-Collector in addition to his services as Sheriff. One Clerk is elected to perform the duties of the District and County Clerk. This Department has repeatedly held that a County Judge, who is also Ex-Officio County Superintendent, a person who performs the duties of the District and County Clerk, and the Sheriff who also performs the duties of the Tax Assessor-Collector of his County each hold only one office and are performing additional services imposed by statute. Therefore, the maximum compensation of each of those officials under Articles 3883 and 3891 cannot exceed \$3,000.00 per annum.

Your request is very general in nature; however, we understand that you desire our opinion regarding the maximum compensation that may be retained by the County Officials of your County. As above stated, the maximum compensation of the County Officials of said County cannot, in any event, exceed \$3,000.00 each per annum.

In the event you desire our opinion pertaining to any specific question you have in mind, we will be glad to consider your request when presented, specifically stating the question desired to be answered, and giving the facts in connection therewith.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

AW:rtm

APPROVED JAN 20, 1945

By /s/ Ardell Williams
Ardell Williams

/s/ Carlos Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
Opinion
Committee
By /s/ [Signature]
Chairman