



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL  
ATTORNEY GENERAL

July 19, 1951

Hon. Sam W. Davis  
Criminal District Attorney  
Houston 2, Texas

Opinion No. V-1207

Re: Validity and applicability to Harris County of Sec. 1a, Art. 5139, V.C.S., allowing additional compensation for service on the juvenile board by county judges of counties which border on the Gulf of Mexico and have a population above 100,000.

Dear Sir:

The request of your office states that a former County Judge of Harris County has filed a claim against the county for unpaid salary in the sum of \$2,-320.83 for acting as a member of the Juvenile Board of Harris County under the provisions of Article 5139, V.C.S., which provides in part as follows:

"Sec. 1a. In any county having a population of one hundred thousand (100,000) or over according to the preceding Federal Census, and which said counties border on the Gulf of Mexico, the members composing such Juvenile Board in such county, including the County Judge as a member of said Board, shall each be allowed additional compensation in the amount of One Thousand Five Hundred (\$1,-500.00) Dollars per annum, which shall be paid in twelve (12) equal installments out of the General Fund of such county upon the order of the Commissioners Court. Compensation herein provided shall be in addition to the salary paid District Judges and County Judges of the State and county."

You ask two questions, viz.:

Does Harris County border upon the Gulf of Mexico within the meaning of Article 5139, V.C.S.?

Is Article 5139, V.C.S., unconstitutional under the provisions of Article III, Section 56, Constitution of Texas?

Harris County fronts on Galveston Bay, which is an arm of the Gulf of Mexico.

The emergency clause of the statute which added Section 1a of Article 5139 (Acts 51st Leg., R.S. 1949, ch. 366, p. 699) reads:

"The fact that there are numerous juvenile problems involved in those counties bordering on the Gulf of Mexico which require additional work and consideration on the part of the County Judges who are members of Juvenile Boards, because of the nature of juvenile problems arising in port cities and elsewhere along the coast, creates an emergency . . ."

Although Harris County borders on Galveston Bay, which is a part of the inland waters of the State (see Humble Oil & Refining Co. v. Sun Oil Co., C.C.A. 5th, 1951, yet unreported), we think the reference to "port cities" and "the coast" clearly indicates that the purpose of the Act was to include all coastal counties and that the term "Gulf of Mexico" was used in a loose sense to include its arms and inlets. The additional work for which compensation is granted arises from conditions existing in port cities and coastal areas. The existence of these conditions does not depend on whether the coastal counties touch on the Gulf of Mexico proper. Your first question is accordingly answered in the affirmative.

Section 56 of Article III, Constitution of Texas, provides in part:

"The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, . . .

"Regulating the affairs of counties, cities, towns, wards or school districts;  
"

In Lamon v. Ferguson, 213 S.W.2d 86 (Tex.Civ. App. 1948), the court had before it for consideration a similar act in which it held that the judges comprising the juvenile board were performing a duty on behalf of the State and therefore the act was not unconstitutional

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as being a local or special law regulating the affairs of counties. This holding was reaffirmed in Travis County v. Matthews, 235 S.W.2d 691 (Tex.Civ.App. 1950, error ref. n.r.e.).

You are therefore advised that Article 5139, V.C.S., does not violate Section 56 of Article III of the Constitution of Texas.

SUMMARY

Section 1a of Article 5139, V.C.S. which creates juvenile boards in certain counties, is applicable to Harris County. This statute is not a local or special law within the meaning of Section 56 of Article III of the Constitution of Texas.

APPROVED:

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Yours very truly,

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By

  
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