



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

July 30, 1951

Hon. Paul New  
County Attorney  
Yoakum County  
Plains, Texas

Opinion No. V-1220

Re: Authority of the dis-  
trict judge to increase  
the compensation of the  
county auditor in the  
middle of a fiscal year.

Dear Sir:

Your request for an opinion reads in part as follows:

"Can the District Judge raise the salary of a county auditor at the request of the Commissioner's Court of the county of residence of said auditor, between January 1st, the date of appointment of the auditor, and the beginning of the next ensuing fiscal year of the county?"

"In regard to this question I set out the following facts. The Commissioner's Court of Yoakum County, Texas, entered an order on their minutes at the regular meeting date of the court in May, 1951, raising the salaries of all county officials from \$5,940.00 to \$6,480.00, or 10% of their base pay. At the time that this action was taken the Court requested by letter to the District Judge, . . . 106th Judicial District, that he raise our County Auditor's salary, as of the 1st day of June, 1951. Our Auditor took office in January, 1951."

Article 1645, V.C.S., provides:

"In any county having a population of thirty five thousand (35,000) inhabitants, or over, according to the last preceding Federal Census, or having a tax valuation of Fifteen Million (\$15,000,000.00) Dollars or over, according to the last approved tax roll, there shall be biennially appointed an auditor of accounts and

finances, the title of said officer to be County Auditor, who shall hold his office for two (2) years and who shall receive as compensation for his services to the county as such County Auditor, an annual salary of not more than the annual salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the general law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of such County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court, which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county. Provided however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners Court of such county." (Emphasis added.)

According to the records of the office of Comptroller of Public Accounts, Yoakum County has a tax valuation of \$42,218,969.00. Therefore, Article 1645 is applicable to Yoakum County. Under the plain provisions of the

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above statute, "after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county." Therefore, we agree with you that the salary of the County Auditor of Yoakum County may not be changed until January 1, 1952.

SUMMARY

Once the salary of the county auditor has been set for the fiscal year, it may not be changed until January 1st of the following year. Art. 1645, V.C.S.

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

Everett Hutchinson  
Executive Assistant

Charles D. Mathews  
First Assistant

BA:mw

Yours very truly,

PRICE DANIEL  
Attorney General

By

  
Bruce Allen  
Assistant