



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 28, 1951

Hon. D. E. McGlasson, Jr.
County Attorney
Randall County
Canyon, Texas

Opinion No. V-1260

Re: Minimum compensation of
the District Clerk of Ran-
dall County.

Dear Sir:

Your request for an opinion reads as follows:

"The District Clerk has requested me to write you for an opinion as to the minimum salary she should be able to receive under the law."

Randall County has a population of 13,774 inhabitants according to the last preceding Federal census, and the commissioners' court has determined to compensate its county officers on a salary basis. Therefore, the compensation of the district clerk is governed by the provisions of Article 3912e-12, V.C.S. Att'y Gen. Op. V-457 (1947).

Article 3912e-12, V.C.S., provides:

"In all counties of this State having a population of less than twenty thousand (20,000), according to the last preceding Federal Census, and in which counties the Commissioners Courts have determined that the county officials shall be compensated on a salary basis, such Commissioners Courts are authorized to fix the salaries of county officials in such counties, their deputies, clerks and assistants. Said compensation shall be paid in monthly or semimonthly installments, as said Court may determine. Provided, however, that no salary fixed herein by such Commissioners Court shall be in an amount to exceed Five Thousand, Four Hundred Dollars (\$5,400.-00) for the County Officers . . . ; provided, further that no salary shall be set at a figure lower than that paid for the Calender Year 1946." (Emphasis added throughout.)

Randall County had a population in 1948 according to the 1940 Federal census of 7,185 inhabitants. Therefore, the office of district clerk was not in existence by virtue of Section 20 of Article V, Constitution of Texas, and Article 1903, V.C.S. For this reason, Article 3912g, V.C.S., authorizing an increase in compensation in an additional amount not to exceed 25% of the sum allowed under the law for the fiscal year 1948, cannot be applicable to the District Clerk of Randall County.

It is noted that the only limitation on the salaries to be paid county officers governed by Article 3912e-12 is "that no salary fixed herein by such Commissioners Court shall be in an amount to exceed Five Thousand, Four Hundred Dollars (\$5,400.00), for the County Officers . . . provided, further that no salary shall be set at a figure lower than that paid for the Calendar Year 1946."

Since the office of District Clerk of Randall County was not in existence in 1946 for the reasons stated above, it is our opinion that the underlined proviso of Article 3912e-12 is not applicable to the District Clerk, and we know of no other provision which prescribes a minimum salary for such officer.

You are therefore advised that the amount of salary to be paid the District Clerk of Randall County is left to the sound discretion of the commissioners' court, provided, such salary shall be in an amount not to exceed \$5400.00 per annum. See Att'y Gen. Ops. O-2981 (1941) and V-749 (1948).

SUMMARY

The Commissioners' Court of Randall County is authorized to set the salary of the district clerk at any amount not to exceed \$5400 per annum. Art. 3912e-12, V.C.S.

Yours very truly,

APPROVED:

Bruce Allen
County Affairs Division

Everett Hutchinson
Executive Assistant

Charles D. Mathews
First Assistant

PRICE DANIEL
Attorney General

By 
John Reeves
Assistant