



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

November 8, 1951

Hon. W. L. Powell
County Auditor
Jim Wells County
Alice, Texas

Opinion No. V-1338

Re: Obligation of one county
to share in the salary of
a secretary for the dis-
trict attorney when the
three other counties in
the judicial district have
undertaken their shares.

Dear Sir:

Your request for an opinion reads as follows:

"The Commissioners Court of Jim Wells County, Texas has requested this office to ask for an opinion from your department on the following:

'Is Jim Wells County automatically bound to pay its pro-rata share of the salary of the Secretary to the District Attorney when said salary has been approved by the combined majority of the commissioners courts comprising his Judicial district.'

"The facts surrounding this request are as follows:

"In July of this year, Jim Wells County received a request from the district attorney for approval of its pro-rata share of the salary of his stenographer which had been authorized by an act of the last legislature. The budget for 1952 was then being prepared and the request was incorporated therein. The 1952 budget was adopted in September and the salary of the stenographer was authorized to begin on January 1, 1952.

"A request similar to the one submitted to Jim Wells County was also submitted to the Commissioners Court of the

other three counties comprising his Judicial district and these other courts authorized the payment of the salary to begin on September 1, 1951.

"This office now has a letter from the District Attorney which expresses the opinion that, inasmuch as the salary has been approved by three of the four counties comprising his Judicial district, Jim Wells County is automatically bound by the action of the majority of the commissioners courts and should begin paying its pro-rata share of the salary on September 1, 1951 rather than on January 1, 1952."

The 79th Judicial District is composed of the counties of Starr, Brooks, Duval, and Jim Wells. Art. 199 (79), V.C.S.

Senate Bill 212, Acts 52nd Leg., R.S. 1951, ch. 365, p. 617 (codified as Article 326-K-19, V.C.S.) provides:

"Section 1. Any district attorney in the State of Texas in a judicial district containing two (2) or more counties is authorized to employ a stenographer or clerk who shall receive a salary not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum, to be fixed by the district attorney and approved by the combined majority of the Commissioners Courts of the counties composing his judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the judicial district, pro-rated apportionately to the population of the county."

It was held in Attorney General's Opinion V-1314 (1951) that it was mandatory that a stenographer or clerk employed by a district attorney under the provisions of Senate Bill 212 be paid a reasonable salary not to exceed \$2400.00 per annum.

The prerequisites for payment of the salary of such stenographer or clerk are that the salary be fixed by the district attorney and approved by the "combined majority of the commissioners courts of the counties composing his Judicial District." Since the salary has been fixed by the district attorney of the 79th Judicial District and has been approved by the combined majority of the commissioners courts of the Counties of Starr, Brooks, Duval, and Jim Wells, it is mandatory that such salary "be paid monthly by the commissioners' court of each county composing the Judicial District pro-rated apportionately to the population of the county." Under the facts set out in your request, Jim Wells County is required to pay its pro-rata part of the salary from September 1, 1951.

SUMMARY

Under the provisions of Senate Bill 212, Acts 52nd Leg., R.S. 1951, ch. 365, p. 617, authorizing the district attorney in certain judicial districts to appoint a stenographer or clerk, it is mandatory that the salary which has been fixed by the district attorney and approved by the combined majority of the commissioners' courts be paid monthly by the commissioners' court of each county composing the judicial district, pro-rated according to the population of the county.

APPROVED:

J. C. Davis
County Affairs Division

Everett Hutchinson
Executive Assistant

Charles D. Mathews
First Assistant

JR:mh

Yours very truly,

PRICE DANIEL
Attorney General

By *John Reeves*
John Reeves
Assistant