



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

December 11, 1951.

Hon. Joe Schultz
County Attorney
Limestone County
Groesbeck, Texas

Opinion No. V-1367

Re: Compensation of judges
and clerks of general
and special elections
when two elections are
held at the same time.

Dear Sir:

Your request for an opinion reads as follows:

"FACTS: On November, 13, 1951, Limestone County held two elections, one of state wide nature and one of local nature, each held under separate proclamations of the Governor; each election was held on the same day, at the same time, and by the same election judges and clerks of each voting box. The said Judges of some five voting boxes have filed their claims with the Commissioners Court for double pay, basing their claims on the fact that two separate and distinct elections were held.

"QUESTION: Under art. 2943, R.C.S., as amended by the 52nd Legislature, which article provides for the pay of election judges and clerks, are said judges entitled to double pay on the facts set out above? Are said judges and clerks entitled to double pay under any statute of Texas?

"From the wording of Article 2943, R.C.S., as amended, it is the opinion of my office that the said judges and clerks are to be paid by the day's work and not by the number of elections which they hold. I would appreciate it if you would send me

your opinion on this matter in order that I may advise my Commissioners as to what action to take on the presented claims."

Article 2943, V.C.S., as amended by Senate Bill 20, Acts 52nd Leg., R.S. 1951, ch. 313, p. 535, reads as follows:

"The pay of judges and clerks of general and special elections shall be determined by the Commissioners Court of the County where such services are rendered; but same shall not exceed Eight (\$8.00) Dollars a day for each judge or clerk, nor exceed One (\$1.00) Dollar per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after the votes have been counted shall be paid Two (\$2.00) Dollars for that service; provides also, he shall make returns of all election supplies not used when he makes return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners."

This statute empowers the Commissioners' Court of each county to determine the amount which its county will pay to each judge and clerk of general and special elections for "a day's work," which is defined as "ten working hours," not to exceed eight dollars, and not to exceed one dollar per hour for any time in excess of "a day's work." It does not authorize Commissioners' Courts to fix any other basis for the payment of such judges and clerks when they conduct two or more elections at the same time. Consequently, when the same judges and clerks conduct, at the same time, two separate elections, general, special, or general and special, they are only entitled to be paid for a day's work with extra pay

for any time worked in excess of 10 hours.

It is our further opinion that when the same judges and clerks conduct at the same time two separate elections, general, special, or general and special, the judge who delivers the returns of both elections in compliance with the provisions of Article 29⁴3, as amended, is entitled to be paid two dollars for each return, because the statute provides that amount shall be paid for delivery of "the returns of election."

SUMMARY

Judges and clerks who conduct at the same time two separate elections, general, special, or general and special, may only be paid for working one day, with extra pay for any time worked in excess of 10 hours. The judge who delivers the returns of both elections in compliance with the provisions of the statute is entitled to be paid two dollars for each return. Art. 29⁴3, V.C.S., as amended by Senate Bill 20, Acts 52nd Leg., R.S. 1951, ch. 313, ps 535.

APPROVED:

J. C. Davis, Jr.
County Affairs Division

Charles D. Mathews
First Assistant

BWB:wb

Yours very truly,

PRICE DANIEL
Attorney General

Bruce W. Bryant
By

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