



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

January 15, 1952

Hon. Nic L. Ladner
County Auditor
DeWitt County
Cuero, Texas

Opinion No. V-1386

Re: Maximum compensation of
DeWitt County officers
and their deputies.

Dear Sir:

You have requested an opinion on the maximum compensation of the county officers of DeWitt County and their deputies, assistants, and clerks.

DeWitt County has a population according to the 1950 Federal Census of 22,973 inhabitants and a tax valuation of \$22,967,165.00 according to the 1951 tax rolls.

The compensation of the county commissioners is governed by Articles 2350 and 3912g, V.C.S. The compensation of the county treasurer is governed by the provisions of Section 2 of H.B. 265, Acts 52nd Leg., R.S. 1951, ch. 391, p. 675 (Art. 3943e, V.C.S.). The compensation of the remaining county officials is governed by the provisions of Section 13 of Article 3912e and of Article 3912g, V.C.S.

Article 2350 provides in part:

"In counties having the following assessed valuations, respectively, as shown by the total assessed valuations of all properties certified by the county assessor and approved by the Commissioners Court, for county purposes, for the previous year, from time to time, the County Commissioners of such counties shall each receive annual salaries not to exceed the amounts herein specified, said salaries to be paid in equal monthly instalments, at least one-half (1/2), and not exceeding three-fourths (3/4), out of the Road and Bridge Fund, and the remainder out of the General Fund of the county; said assessed valuations and salaries applicable thereto

being as follows:

" . . .

"\$12,000,001 and less than 20,000,000
not to exceed \$2,500.00.

"\$20,000,001 and less than 30,000,000
not to exceed \$3,000.00.

" . . . "

Since DeWitt County has a tax valuation of \$22,967,165.00 (1951 tax rolls) the maximum compensation allowed the county commissioners under Article 2350, a 1939 statute, is \$3,000.00. Section 1 of Article 3912g authorizes an increase in compensation "not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948". Since DeWitt County had a tax valuation in 1948 (1947 tax rolls) of \$16,861,790.00, the maximum allowed under the law in 1948 was \$2,500.00. Therefore, Article 3912g authorizes an increase in compensation not to exceed \$625.00 (twenty-five per cent of \$2,500.00).

In view of the foregoing, it is our opinion that the maximum salary that may be paid the county commissioners of DeWitt County is \$3,625.00 (\$3,000.00 plus \$625.00). Att'y Gen. Op. V-1327 (1951).

Section 2 of Article 3943c provides:

"In each county in the State of Texas having a population of at least twenty thousand (20,000) and not more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Two Thousand, Four Hundred Dollars (\$2,400) per annum."

By virtue of the above quoted provision no maximum is prescribed for the county treasurer. Att'y Gen. Ops. V-1216 (1951) and V-1327 (1951). Therefore, the commissioners' court may set the salary of the county treasurer at any reasonable amount not less than \$2,400.00 per annum.

Section 13 of Article 3912e authorizes the officers named therein to receive a salary of "not more than the maximum amount allowed such officer under laws existing on August 24, 1935". Since DeWitt County had a population in 1935 (1930 Federal Census) of 27,441 inhabitants, the maximum amount allowed its county officers on August 24, 1935 was \$3,500.00. Articles 3883 and 3891, V.C.S.

Section 13 of Article 3912e also authorizes an increase of one per cent (1%) for each one million dollar valuation or fractional part thereof in excess of fifteen million dollars "over and above the maximum allowed such officers under laws existing on August 24, 1935". Since DeWitt County has a valuation of \$22,967,-165.00 this increase amounts to \$280.00 (8% of \$3,500.00).

Sub-division (e) of Section 13 of Article 3912e authorizes an increase of twenty-five per cent of the sum allowed under the law for the fiscal year of 1944. Since the valuation of DeWitt County in 1944 (1943 tax rolls) had remained below \$15,000,000.00, thereby allowing no salary increase based upon increase in valuation, this increase amounts to \$875.00 (25% of \$3,500.00).

Section 1 of Article 3912g provides:

"The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the officer justify the increase, to enter an order increasing the compensation of the precinct, county and district officers, or either of them, in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948, whether paid on fee or salary basis; provided, however, the members of the Commissioners Court may not raise the salaries of any of such Commissioners Court under the terms of this Act without raising the salary of the remaining county officials in like proportion."

Since DeWitt County had a valuation in 1948 (1947 tax rolls) of \$16,861,870.00, Section 13 of Article 3912e authorized an increase in 1948 of \$70.00 (2% of \$3,500.00). Sub-division (e) of Section 13 of Article 3912e, as above noted, also authorized an increase

of \$875.00 (25% of \$3,500.00). Therefore, the maximum sum allowed under the law in 1948 was \$4,445.00 (\$3,500.00 plus \$70.00 plus \$875.00). Since the maximum allowed under the law in 1948 was \$4,445.00 the maximum increase allowed under Section 1 of Article 3912g is \$1,111.25 (25% of \$4,445.00).

In view of the foregoing the maximum compensation that may be paid the county officials of DeWitt County, governed by Articles 3912e, Section 13, and 3912g, amounts to \$5,766.25 (\$3,500.00 plus \$280.00 plus \$875.00 plus \$1,111.25). In addition to the compensation provided for in Article 3912e, Section 13 and Article 3912g, Section 1, the tax assessor-collector is entitled to the additional compensation provided for in Section 57 of Article 1436-1, V.P.C., as amended by S.B. 271, Acts 52nd Leg., R.S. 1951, ch. 368, p. 620. See Att'y Gen. Op. V-1294 (1951).

The compensation of the deputies, assistants, and clerks of the county officials of DeWitt County is governed by the provisions of Articles 3902 and 3912g, V.C.S.

Article 3902 provides in part:

*Whenever any district, county or precinct officer shall require the services of deputies, assistants or clerks in the performance of his duties he shall apply to the County Commissioners' Court of his county for authority to appoint such deputies, assistants or clerks, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners' Court or any member thereof attempt

to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such assistants, deputies or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants or clerks above named for their services shall be a reasonable one, not to exceed the following amounts:

"1. In counties having a population of twenty-five thousand (25,000) or less inhabitants, first assistant or chief deputy not to exceed Eighteen Hundred (\$1800.00) Dollars per annum; other assistants, deputies or clerks not to exceed Fifteen Hundred (\$1500.00) Dollars per annum each.

". . .

"The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed Thirty-six Hundred (\$3600.00) Dollars."

Section 2 of Article 3912g provides:

"The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of any such deputy, assistant or clerk in an additional amount not to exceed thirty-five (35%) per cent of the sum allowed under the law for the fiscal year of 1948."

Since DeWitt County had a population in 1948 (1940 Federal Census) of 24,935 inhabitants, the sum allowed the chief deputy, assistant or clerk in DeWitt County under the law in 1948 was \$2,250.00 (\$1,800.00 plus \$450.00), and \$1,875.00 (\$1,500.00 plus \$375.00) for the other deputies, assistants and clerks. Article 3902, V.C.S.; Att'y Gen. Op. V-1327 (1951). Since DeWitt County now has a population of 22,993 inhabitants (1950 Federal Census), Article 3902 authorizes a salary not to exceed \$2,250.00 (\$1,800.00 plus \$450.00) to the chief deputy, assistant or clerk, and \$1,875.00 (\$1,500.00 plus \$375.00) to the other deputies, assistants or clerks.

Section 2 of Article 3912g authorizes an increase not to exceed \$787.50 (35% of \$2,250.00) to the chief deputy, assistant or clerk, and an increase not to exceed \$656.25 (35% of \$1,875.00) to the other deputies, assistants and clerks. Att'y Gen. Op. V-1327 (1951).

Therefore, the maximum that may be paid to the chief deputy, assistant or clerk is \$3,037.50 (\$2,250.00 plus \$787.50), and the maximum salary that may be paid to the other deputies, assistants or clerks is \$2,531.25 (\$1,875.00 plus \$656.25).

SUMMARY

The maximum compensation of the county commissioners of DeWitt County is now \$3,625.00. Arts. 2350 and 3912g, V.C.S.; Att'y Gen. Op. V-1327.

The Commissioners' Court of DeWitt County may set the salary of the county treasurer at any reasonable sum not less than \$2,400.00. Art. 3943e, V.C.S.; Att'y Gen. Ops. V-1216 and V-1327.

The maximum compensation that may be paid the county officials of DeWitt County is \$5,766.25. Arts. 3912e, Sec. 13, and 3912g, Sec. 1; Att'y Gen. Op. V-1327. In addition to the compensation provided for in Articles 3912e, Sec. 13, and 3912g, Sec. 1, the tax assessor-collector is entitled to the compensation provided for in Section 57 of Article 1436-1, V.P.C., as amended by Senate Bill 271, Acts 52nd Leg., R.S. 1951, ch. 368, p. 620. Att'y Gen. Ops. V-1294 and V-1327.

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The maximum salary that may be paid to the chief deputy, assistant or clerk is \$3,037.50, and the maximum salary that may be paid to the other deputies, assistants and clerks is \$2,531.25. Arts. 3902 and 3912g, V.C.S.; Att'y Gen. Op. V-1327.

Yours very truly,

APPROVED:

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JR:mh

PRICE DANIEL
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By 
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