



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

September 14, 1965

Honorable Henry Wade
District Attorney
Records Building
Dallas, Texas 75202

Opinion No. C-505

Re: Construction of House Bill
546, Acts of the 59th Legis-
lature, Regular Session, 1965,
Chapter 371, Page 781, com-
piled in Vernon's as Article
2326L-1, Vernon's Civil Stat-
utes.

Dear Mr. Wade:

Your request for an opinion asks the following question:

"If the District and County Judges of Dallas County, Texas, raise the salaries of their respective Court Reporters to the maximum amount allowed by H. B. 546, Ch. 371, Acts of the 59th Legislature, codified as Article 2326L-1, is it mandatory upon the Commissioners Court of Dallas County, Texas, to provide the necessary funds to pay the increased salaries of the aforementioned Court Reporters?"

Sections 1 and 2 of House Bill 546, Acts of the 59th Legislature, Regular Session, 1965, Chapter 371, page 781, compiled in Vernon's as Article 2326L-1, Vernon's Civil Statutes, read as follows:

"Section 1. In all counties in the State of Texas having a population of 900,000 or more, according to the last preceding or any future Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Eleven Thousand Five Hundred Dollars (\$11,500) per annum, in addition to compensation for transcripts, statements of facts and other fees. The appointment of each such court reporter and the annual salary of such court reporter as fixed by the judge of the court in which such court reporter

serves shall be evidenced by an order entered in the Minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

"Sec. 2. A certified copy of the order appointing such reporter and fixing the salary to be paid such reporter shall be transmitted to the commissioners court of such counties, who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees." (Emphasis added).

In construing similar provisions, it was held in Attorney General's Opinion V-707 (1948) that if a district judge sets the salary of a district court reporter in accordance with the provisions of Article 2326, Vernon's Civil Statutes, the commissioners court was required to pay the salary so set. The conclusion reached in Attorney General's Opinion V-707 is equally applicable to the provisions of Article 2326L-1, Vernon's Civil Statutes, involved in your request. Furthermore, it was held in Attorney General's Opinion V-857 that the commissioners court has the authority to amend the county budget to the extent to effectuate payment of salaries provided by an act of the Legislature, stating:

"The grant of an express power by the Legislature gives with it by necessary implication every other power necessary and proper to execution of the power expressly granted. Terrell v. Sparks, 104 Tex. 191, 135 S.W. 519 (1911); Moon v. Allred, 277 S.W. 787 (Tex. Civ. App. 1925, writ dismissed).

"In view of the clear and unambiguous language of Senate Bill 92 it is our opinion that it was the intention of the Legislature to grant to the Commissioners' Court of every county the express power to allow the salary increases provided therein on the effective date of said Act. Since the Commissioners' Court of Bexar County has the express power to raise the salary of its county

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officials within the limitations prescribed therein, it is our opinion that the Commissioners' Court has the implied power to do those things necessary and proper to effectuate such salary increases: to-wit, amending its 1949 budget to the extent of providing for such increases as it may determine to be necessary in accordance with the provisions of Senate Bill 92, Acts of the 51st Legislature."

The court, in Wichita County v. Griffin, 284 S.W.2d 253, (Tex.Civ.App. 1955, error ref. n.r.e.) held that a statute empowering district judges, within certain limits, to fix salaries of court reporters was not an unconstitutional delegation of power.

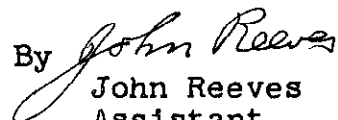
You are therefore advised that the provisions requiring the commissioners court to pay the salaries of court reporters fixed by the judges, pursuant to the provisions of Article 2326L-1, are mandatory, and the commissioners court has the authority to amend its budget to effectuate the payment of the salaries so fixed.

SUMMARY

It is mandatory that the commissioners court pay the salaries provided in House Bill 546, Acts of the 59th Legislature, Regular Session, 1965, Chapter 371, page 781, compiled in Vernon's as Article 2326L-1, Vernon's Civil Statutes, when fixed by the judges of the various courts in accordance with the provisions of Section 1 of Article 2326L-1, V.C.S.

Yours very truly,

WAGGONER CARR
Attorney General

By 
John Reeves
Assistant

JR:ms

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APPROVED:

OPINION COMMITTEE
W. V. Geppert, Chairman
Dean Arrington
Wade Anderson
Bill Allen
Ben Harrison

APPROVED FOR THE ATTORNEY GENERAL
By: T. B. Wright