



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

June 23, 1953

Hon. G. Curtis Jackson  
County Attorney  
Zavala County  
Crystal City, Texas

Letter Opinion No. MS-64  
Re: Compensation of County  
Officials.

Dear Sir:

You have requested an opinion on the following questions:

"1. What is the maximum pay for County Commissioners, Zavala County?

"2. With the maximum pay of County officials in this County being \$5400.00 and the County officials now receiving \$3,600.00, if the Commissioners Court takes the 25% raise in salary under Art. 3912g, should they raise other officials 25% of \$3,600.00 being a total of \$4,500.00; 25% of \$5400.00 being a total of \$6750; 25% of \$5400.00 making a total of \$4950.00 (\$3,600.00 plus \$1,350.00)?"

Zavala County has a population according to the 1950 Federal Census of 11,171 inhabitants and has a tax valuation (1952 tax rolls) of \$8,471,674 and had a tax valuation in 1948 (1947 tax rolls) of \$7,150,308.

The compensation of county commissioners is governed by the provisions of Article 2350 and 3912g, Vernon's Civil Statutes. Under Article 2350 the base compensation is \$1800.00. Under Article 3912g the commissioners may be paid an additional increase not to exceed 25% of the sum allowed under the law in 1948. The maximum sum allowed under the law in 1948 was \$1800.00. Therefore, the maximum compensation that may be paid county commissioners of Zavala County is \$2250.00 (\$1800.00 plus \$450.00).

Since the county officials of Zavala County are now compensated on a salary basis and were paid on a fee basis in 1948 the compensation of county officials is governed by the provisions of Section 3 of Article 3912g, V.C.S., which provides as follows:

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"Sec. 3. All of such officers who were paid on a fee basis during the fiscal year of 1948, and who are now to be paid on a salary basis, shall be paid an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year of 1935, and not more than the maximum sum allowed such officer under the laws existing on August 24, 1948, together with the twenty-five (25%) per cent increase allowed by this Act within the discretion of the Commissioners Court."

Since Zavala County was on a fee basis in 1948, Article 3912e-12, V.C.S., has no application to the compensation of county officials. In 1948 the compensation of county officials was governed by the provisions of Article 3883 and 3891, V.C.S., and their maximum was \$3750.00 (\$3000.00 plus \$750.00). Article 3912g authorizes an additional increase not to exceed \$937.50 (25% of \$3750.00). Therefore, the maximum compensation of the county officials in Zavala County is \$4687.50 (\$3750.00 plus \$937.50). Att'y Gen Op. V-1327 (1951), copy of which is enclosed.

Section 1 of Article 3912g provides that the Commissioners' Court cannot raise the salary of any member of the Commissioners' Court under the terms of Article 3912g without raising the salaries of the remaining county officials in like proportion. Therefore, if the Commissioners' Court authorizes a 25% increase under Article 3912g for County Commissioners, it must pay the remaining County officials \$4687.50. Att'y Gen. Ops. V-864 (1949), V-1004 (1950), V-1279 (1951).

Under the facts submitted in your request, the Commissioners' Court has passed a retroactive order which attempts to raise the compensation of the County Commissioners for the years 1948, 1949 and 1950. Such an order is void being in violation of Section 53 of Article III of the Constitution of Texas. Att'y Gen. Op. O-5104 (1943).

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

JR:am:wb

By  
John Reeves  
Assistant

Encl.