

THE ATTORNEY GENERAL

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An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0001-JS

Requestor:

Ms. Gloria Meraz

Director and Librarian

Texas State Library & Archives Commission

Post Office Box 12927

Austin, Texas 78711-2927

Re: Scope of authority of the Texas State Library and Archives Commission to accept gifts under Government Code section 441.006(b)(2) (RQ-0001-JS)

Briefs requested by July 31, 2023

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202302486

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: July 11, 2023



Opinions

Opinion No. JS-0004

Mr. Thomas J. Gleeson

Executive Director

Public Utility Commission of Texas

Post Office Box 13326

Austin, Texas 78711

Re: Whether the Public Utility Commission has authority under Water Code section 12.013 to hear an appeal by a municipal utility of rates set by a water control and improvement district, or whether the Texas Commission on Environmental Quality has exclusive authority over such an appeal under Water Code subsection 51.305(d) (RQ-0478-KP)

SUMMARY

Water Code subsection 12.013(a) authorizes the Public Utility Commission to fix reasonable rates for the furnishing of raw or treated wa-

ter for any purpose under Water Code chapter 11 or 12. Water Code section 51.305 pertains to specific expenses a water control and improvement district may allocate to certain users. The two provisions do not conflict. Under the plain terms of subsection 51.305(d), when an authorized party disputes a water control and improvement district's allocation assessments and other payments necessary to cover the maintenance and operating expenses of its water delivery system, a petition filed with the Texas Commission on Environmental Quality is the sole remedy. Otherwise, the matter is before the Public Utility Commission.

As this office does not resolve factual questions in attorney general opinions, we cannot determine the nature of the underlying dispute and thus cannot answer your question about which entity may have exclusive jurisdiction to hear it.

Opinion No. JS-0005

The Honorable David A. Levy

Archer County Attorney

Post Office Box 1186

Archer City, Texas 76351

Re: Questions related to the use of a sheriff's commissary funds for a vehicle to transport inmates to medical appointments (RQ-0494-KP)

SUMMARY

While it is a determination for the sheriff of Archer County in the first instance, a court would likely conclude that the acquisition of a vehicle dedicated to safely transporting inmates to and from medical and mental health appointments qualifies as equipment, a program, a service, or an activity that provides for the well-being, health, safety and security of inmates and a jail facility and thus, is a permissible use of commissary funds under Local Government Code subsection 351.0415(c)(5).

Because of a sheriff's "exclusive control" of commissary funds under subsection 351.0415(b)(1) and ability to "fund" the items in subsection 351.0415(c)(5) of the Local Government Code, a court would likely conclude that a sheriff has authority to lease a vehicle with commissary funds without first seeking the approval of the commissioners court.

Whether a commissioners court may use money from the general fund to pay insurance and maintenance costs on a vehicle acquired with commissary funds depends on whether the expenditure is provided in the budget.

Local Government Code subsection 263.152(a)(1) applies to surplus property owned by a county. Whether a particular vehicle is owned by

Archer County is a fact question that cannot be resolved in the opinion process.

Opinion No. JS-0006

The Honorable Terry Canales

Chair, House Committee on Transportation

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a member of the Board of Trustees of the La Joya Independent School District may simultaneously serve as a member of the Board of Directors of the Hidalgo County Irrigation District No. 6 (RQ-0495-KP)

S U M M A R Y

The common-law doctrine of conflicting-loyalties incompatibility prohibits one person from simultaneously holding two offices that would

prevent the person from exercising independent and disinterested judgment. Because the La Joya Independent School District and the Hidalgo County Irrigation District No. 6 have taxation authority in overlapping territory, one individual may not simultaneously serve as a school board trustee and irrigation district board member. A court would likely conclude that in qualifying for the second incompatible office of trustee for the School District, the individual does not holdover under article XVI, subsection 17(a).

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202302487

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Filed: July 11, 2023

