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An index to the full text of these documents is available on the Attorney General’s website at https://www.texasattorneygeneral.gov/attorney-general-opinions. For information about pending requests for opinions, telephone (512) 463-2110.

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-0369-KP
Requestor:
The Honorable Terry Canales
Chair, House Committee on Transportation
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910
Re: Whether the actions of a city councilmember implicate the automatic resignation provisions of the Texas Constitution (RQ-0369-KP)

Briefs requested by September 8, 2020
For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202003302
Lesley French
General Counsel
Office of the Attorney General
Filed: August 11, 2020

Opinions
Opinion No. KP-0324
The Honorable Brandon Creighton
Chair, Senate Committee on Higher Education
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068
Re: Authority of local governmental entities operating under local emergency declarations, to delay, prohibit, or restrict eviction procedures established by the Legislature in chapter 24 of the Property Code (RQ-0362-KP)

SUMMARY
Chapter 418 of the Government Code grants emergency powers to the Governor and local officials operating under a disaster declaration. Yet, it does not authorize local governmental entities operating under a declared disaster to independently rewrite state law such as Property Code chapter 24 governing evictions.

Opinion No. KP-0325
The Honorable John P. Cyrier
Chair, House Committee on Culture, Recreation & Tourism
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910
Re: Whether section 2166.003 of the Government Code applies to the possible removal of the Lawrence Sullivan Ross statue at Texas A&M University, and if so, who may provide approval to remove the statue (RQ-0361-KP)

SUMMARY
Section 2166.5011 of the Government Code establishes requirements for the removal or relocation of a monument or memorial located on state property that honors a Texas citizen for military service. Because the Lawrence Sullivan Ross statue on the campus of Texas A&M University is located on state property and honors Ross at least in part for his military service, a court is likely to conclude that Texas A&M University must comply with the requirements of section 2166.5011 before removing or relocating the Ross statue.

Pursuant to subsection 2166.5011(c), Texas A&M University may move the Ross statue if needed to accommodate construction, repair, or improvements to the surrounding property, but if permanently removing the statue, the University must relocate it to a prominent location. Otherwise, only the Legislature may authorize removal or relocation of the Ross statue. While subsection 2166.5011(b) also provides the Historical Commission and the State Preservation Board with general authority to remove monuments or memorials, a court is unlikely to conclude that those entities possess authority to remove the Ross statue because Texas A&M University lies outside their respective jurisdictions.

Opinion No. KP-0326
The Honorable R. David Holmes
Hill County Attorney
Post Office Box 253
Hilllsboro, Texas 76645
Re: Whether subsection 2054.5191(a-1) of the Government Code requires a member of the board of directors of an appraisal district to complete certified cybersecurity training

(RQ-0332-KP)

SUMMARY

Government Code subsection 2054.5191(a-1) requires certain employees and elected officials of a local government to complete a cybersecurity training program. Under Tax Code section 6.03, board members of an appraisal district are "appointed." A court would likely conclude that the members of the board of an appraisal district are not elected officials within the scope of subsection 2054.5191(a-1), and thus they are not required to complete the certified cybersecurity training program it mandates.

Opinion No. KP-0327

The Honorable Eddie Lucio, Jr.
Chair, Committee on Intergovernmental Relations
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Re: Standards applicable to roads constructed by the Bastrop County Water Control and Improvement District No. 2 under section 11001.008 of the Special District and Local Laws Code (RQ-0333-KP)

SUMMARY

Chapter 11001 of the Special District and Local Laws Code requires the Bastrop County Water Control and Improvement District No. 2 to improve roads for acceptance by Bastrop County into the County system of roads. The County has discretion about the standard it will utilize to approve District improvements, provided the standard is based on good engineering practices according to specified statutory considerations. The County may impose a one-year warranty period on District road improvements, provided that the warranty period constitutes a standard that (1) does not exceed the minimum standards the County currently prescribes in the County and (2) is based on good engineering practices related to subjects such as vehicle and pedestrian safety, soil and terrain variables, watershed impacts, projected traffic use, and future maintenance requirements.

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

TRD-202003303
Lesley French
General Counsel
Office of the Attorney General
Filed: August 11, 2020
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