



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

October 24, 1990

Mr. S. E. Seely  
County Auditor  
El Paso County  
307 Texas Avenue  
El Paso, Texas 79901-1413

LO-90-80

Dear Mr. Seely:

You ask a number of questions about the validity of certain provisions in a contract between El Paso County and the El Paso Sheriff's Deputies Association.

First, you ask whether the county may agree to purchase accrued sick leave and whether the county may increase, retroactively, the rate at which vacation time was accrued. Article III, section 53, of the Texas Constitution prohibits the payment of extra compensation after services have been rendered. The type of retroactive benefits you describe would violate that constitutional provision. City of Greenville v. Emerson, 740 S.W.2d 10. (Tex. App. - Dallas 1987, no writ); see also City of Galveston v. Landrum, 533 S.W.2d 394 (Tex. Civ. App. - Houston [1st Dist.] 1976, writ ref'd n.r.e.).

Chapter 155 of the Local Government Code and article 5154e, V.T.C.S., answer your questions in regard to payroll deductions.

Section 155.001 of the Local Government Code provides:

In a county with 20,000 or more inhabitants, the commissioners court, on the request of a county employee, may authorize a payroll deduction to be made from the employee's wages or salary for:

(1) payment to a credit union;

(2) payment of membership dues in a labor union or a bona fide employees association; or

(3) payment of fees for parking in a county-owned facility.

Section 155.002 provides:

(a) A request for a payroll deduction must:

(1) be in writing;

(2) be submitted to the county auditor;  
and

(3) state the amount to be deducted and the entity to which the amount is to be transferred.

(b) A request remains in effect until the county auditor receives a written notice of revocation signed by the employee.

(c) A payroll deduction may not exceed the amount stated in the request.

See also Local Gov't Code § 155.021 (listing required deductions not relevant here). Article 5154e provides in part:

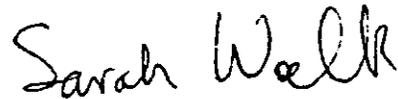
Any contract which permits, requires, prescribes or provides for the retention of any part of the compensation of an employee for the purpose of paying dues or assessments on his part to any labor union, without the written consent of the employee delivered to the employer authorizing the retention or the withholding of such sum shall be null and void and against public policy.

Counties have only those powers expressly granted to them or necessarily implied from express grants of power. Canales v. Laughlin, 214 S.W.2d 451 (Tex. 1948). Thus, the provisions described above enumerate the only purposes for which counties may make payroll deductions. Further, any such deductions may be made only with the individual employee's written consent. Authorization from an employees association to make such deductions is insufficient.

You also ask about certain salary increases authorized by the county judge. Salaries of county employees may be increased only in accordance with chapter 152 of the Local

Government Code. The commissioners court is to set the salary of county employees. Local Gov't Code § 152.011. The county judge, acting by himself, has no authority to set salaries. Canales v. Laughlin, supra.

Very truly yours,



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

SW/lcd

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