Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 13, 1994

Honorable Gary D. Trammel
Stephens County Attorney
County Courthouse, Room 206
Breckenridge, Texas 76424

Letter Opinion No. 94-067

Re: Whether the board of directors of an appraisal district may pay bonuses to its employees if the bonuses were not budgeted for the fiscal year and related question (ID# 24997)

Dear Mr. Trammel:

You ask whether the board of directors of the Stephens County Appraisal District (the "board") may pay bonuses to its employees if the bonuses were not included in the budget for that fiscal year. You also ask whether the board may retain money on hand at the end of a fiscal year for future needs, or whether the board must remit the money to the various taxing authorities that compose the Stephens County Appraisal District (the "district"). You suggest that your questions involve an interpretation of section 6.06 of the Tax Code, which provides for appraisal district budget and financing.

You explain that in 1993 the district entered into an interlocal appraisal contract with the Haskell County Appraisal District, under which the district would do special work for the Haskell County Appraisal District. *See* Gov't Code ch. 791 (Interlocal Cooperation Act). Pursuant to the contract, the Haskell County Appraisal District paid to the district the sum of $23,000.00. The board voted to use part of the money the district received from the Haskell County Appraisal District to pay bonuses to district employees. The board voted to retain the remainder of the money, which you state is $15,000.00, to be applied in the sole discretion of the board to "future needs" of the district.

Your first question pertains to the propriety of awarding bonuses to district employees in a fiscal year in which the district had not budgeted such bonuses. The district's omission of employee bonuses from its fiscal year 1993 budget does not prevent the board from giving employee bonuses; section 6.06(c) of the Tax Code authorizes the board of an appraisal district to amend its budget at any time during the fiscal year, provided the board does so in compliance with that subsection.[1] However, article III, section 53 of the Texas Constitution appears to preclude the bonuses.

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[1]Section 6.06(c) of the Tax Code provides as follows:

> The board may amend the approved budget at any time, but the secretary of the board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the board acts on it.

Article III, section 53 prohibits any county or municipal authority from granting any extra compensation, fee, or allowance to a public employee for services after the employee has rendered them. *See* Attorney General Opinion JM-1253 (1990) at 2. An appraisal district is a "municipal authority" for purposes of article III, section 53. *See also* Attorney General Opinion O-5360 (1943) at 4 (defining "municipal corporation"); *cf. Harlingen Indep. Sch. Dist. v. C.H. Page & Bro.*, 48 S.W.2d 983, 986 (Tex. Comm'n App. 1932, judgm't adopted) (concluding that independent school district is "municipality" for purposes of article III, section 53).

Accordingly, the district may pay bonuses to its employees only if the board approved the bonus plan as part of compensation before the employees rendered their services. *See* Attorney General Opinion JM-1253 at 2-3. You do not indicate that the board did so. We conclude that the board improperly awarded bonuses to district employees.[2]

We understand you to ask in your second question whether, under section 6.06(j) of the Tax Code, at the end of the fiscal year the district may carry forward into the new fiscal year the remainder of the money it received from the Haskell County Appraisal District. Under section 6.06(d), each taxing unit[3] that participates in an appraisal district[4] must contribute to the appraisal district a proportional amount of the budget calculated according to a formula articulated in subsection (d).[5] Section 6.061 authorizes an appraisal district to change its method of financing, but whether an appraisal district is financed pursuant to section 6.06(d) or by one of the alternative methods provided in section 6.061, the statutes appear to contemplate that an appraisal district's participating taxing units will finance the appraisal district.

We are unaware of any statute that explicitly provides for excess funds resulting from an appraisal district's interlocal contract with another appraisal district. We believe

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[2]You do not ask about, and thus we do not consider, the consequences of the board's action.

[3]Section 1.04(12) of the Tax Code defines "taxing unit" as "a county, an incorporated city or town . . . , a school district, a special district or authority . . . , or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property . . . ."

[4]Section 6.01(a) of the Tax Code establishes an appraisal district in each county. "The district is responsible for appraising property in the district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the district." *Id.* § 6.01(b); *see also id.* § 6.02 (establishing district boundaries).

[5]Each taxing unit must pay a percentage of the total costs of financing an appraisal district in which the taxing unit participates, which percentage is determined by dividing the total dollar amount of property taxes the taxing unit imposed in the district for the tax year in which the budget proposal is prepared by the sum of the total dollar amount of property taxes each participating taxing unit imposed in the district for that year. Tax Code § 6.06(d).

that section 6.06(j) provides guidance in this situation, however. Section 6.06(j) states in pertinent part as follows:

> If the total amount of the payments made or due to be made by the taxing units participating in an appraisal district exceeds the amount actually spent or obligated to be spent during the fiscal year for which the payments were made, the chief appraiser shall credit the excess amount against each taxing unit's allocated payments for the following year in proportion to the amount of each unit's budget allocation for the fiscal year for which the payments were made.

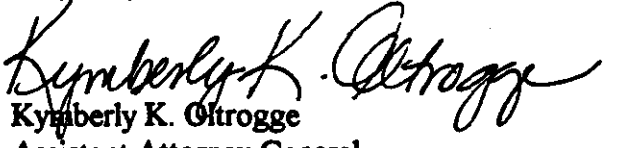
Applying section 6.06(j) by analogy, we conclude that, at the end of the fiscal year, the chief appraiser of the district proportionally must credit against each participating taxing unit's allocated payments for the following fiscal year any funds, including money the district received from the Haskell County Appraisal District, that exceeds the amount the district actually spent or obligated to be spent. We note that section 6.06(j) does not require the chief appraiser physically to remit the excess funds to the participating taxing units; rather, the chief appraiser only must proportionally reduce the amount each participating taxing unit is to pay the district the following fiscal year.

SUMMARY

Article III, section 53 of the Texas Constitution precludes the board of directors of an appraisal district from paying bonuses to district employees unless the board approved the bonus plan as part of the employees' compensation before the employees rendered their services.

At the end of a fiscal year, section 6.06(j) of the Tax Code requires the chief appraiser of an appraisal district to credit against each participating taxing unit's allocated payments for the following fiscal year any funds that exceed the amount the district actually spent or obligated to be spent. We believe section 6.06(j) applies by analogy to a situation in which the appraisal district's excess funds are a consequence of an interlocal appraisal contract pursuant to which the appraisal district performed work for another appraisal district.

Very truly yours,



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