



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 25, 1995

Honorable Jesusa Sanchez-Vera  
Jim Wells County Attorney  
P.O. Box 2080  
Alice, Texas 78333

Letter Opinion No. 95-053

Re: Whether a county commissioners court may establish or reduce the salaries of employees of a single commissioner absent a written policy (ID# 24819)

Dear Ms. Sanchez-Vera:

You have requested an opinion from this office concerning the authority of a county commissioners court to reduce the salaries of certain county employees. You specifically ask whether in the absence of a written policy, the commissioners court may reduce the salaries of individuals employed by a single commissioner. We understand your query to also include whether the court is authorized to establish such salaries in the absence of a written policy. You have informed us that a county commissioner offered two individuals positions of employment with salaries of \$32,000.00 and \$21,000.00 per year, respectively. You further advise that prior to making the offers of employment, the commissioner sought the advice of the county auditor and was informed that there was no written policy regarding the establishment of county employee salaries. The county budget which was later approved and adopted by the commissioners court decreased the salaries by \$10,000.00 and \$4,000.00 per year, respectively. We assume that the employees at issue are paid wholly with county funds and that they are employees of the county.

A county commissioners court may only act as authorized by the state constitution or statutes. Article V, section 18 of the Texas Constitution grants the commissioners court jurisdiction over all "county business as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed." Although a commissioners court can act only where authorized, the courts will allow the exercise of broad discretion on the part of the commissioners court to exercise all authority granted, express or implied, necessary to achieve the specific goals authorized by state law. *Pritchard & Abbott v. McKenna*, 350 S.W.2d 333 (Tex. 1961); *Canales v. Laughlin*, 214 S.W.2d 451 (Tex. 1948); *Renfro v. Shropshire*, 566 S.W.2d 688 (Tex. Civ. App.—Eastland 1978, writ ref'd n.r.e.); *Starr County v. Guerra*, 297 S.W.2d 379 (Tex. Civ. App.—San Antonio 1956, no writ); 35 DAVID B. BROOKS, COUNTY & SPECIAL DISTRICT LAW § 5.11 (Texas Practice 1989).

The commissioners court of a county is authorized to set the amount of compensation that county officers and employees paid wholly from county funds receive. See Local Gov't Code §§ 152.001, .011. The court must set the amount of compensation

above the salary in effect for such positions on January 1, 1972. *Id.* § 152.012. We note that the commissioners court must act as a body when exercising such authority. Further, it is well established in Texas that individual members of the court are not vested with the authority to bind the county by their separate action and that only when such action is taken by the body as a whole, acting in its official capacity, will the county be bound. *Canales*, 214 S.W.2d at 455; *Gano v. Palo Pinto County*, 8 S.W. 634, 635 (Tex. 1888); *Stratton v. County of Liberty*, 582 S.W.2d 252, 254 (Tex. Civ. App.--Beaumont 1979, writ ref'd n.r.e.). Therefore, an individual commissioner is not authorized to establish the salary of a county employee.

The amounts of expenditures for salaries of elected officials shall be set "at a regular meeting of the court during the regular budget hearing and adoption proceedings." Local Gov't Code § 152.013(a). Modification of an elected county official's salary may only occur during the court's regular budget hearing. See Attorney General Opinions JM-839 (1988) at 6, H-643 (1975) at 2 (construing statutory predecessor to Local Gov't Code § 152.013), H-11 (1973) at 3 (same).<sup>1</sup> However, opinions of this office have concluded that compensation for nonelected county officials and employees may be set, increased, or decreased at any time during the fiscal year. See Attorney General Opinions JM-1160 (1990) at 2, JM-839 (1988), H-11 (1973) at 3-4 (construing statutory predecessor to Local Gov't Code § 152.013), O-1481 (1939) at 3-4; see also Attorney General Opinion JM-599 (1986) at 4 (construing statutory predecessor to Local Gov't Code § 152.011).

You have implied that a county commissioner court's authority to set or change county employees' salaries may be affected by lack of a written policy. However, the statutory authority authorizing the commissioners court to set, increase, or decrease the salaries of county employees does not require a written policy; nor do any judicial decisions or attorney general opinions suggest that a written policy is in any way relevant to the commissioners' authority. Accordingly, the Commissioners Court of Jim Wells County may reduce the salaries of a commissioner's staff absent a written policy, as long as the amount of compensation remains above the salary in effect for such positions on January 1, 1972.

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<sup>1</sup>We assume that such proceedings are held in substantial compliance with the notice requirements of the Open Meetings Act. See Gov't Code ch. 551.

**S U M M A R Y**

The authority of a county commissioners court to establish the salaries of county employees includes the authority to reduce the salaries of a commissioner's staff absent a written policy, as long as the amount of compensation remains above the salary level in effect for the affected positions on January 1, 1972. See Local Gov't Code §§ 152.011 - .012.

Yours very truly,

A handwritten signature in black ink that reads "Toya Cirica Cook". The signature is written in a cursive style with a long horizontal flourish at the end.

Toya Cirica Cook  
Assistant Attorney General  
Opinion Committee