



KEN PAXTON

ATTORNEY GENERAL OF TEXAS

October 23, 2023

The Honorable Matthew A. Mills
Hood County Attorney
1200 West Pearl Street
Granbury, Texas 76048

Opinion No. KP-0450

Re: Authority of the Hood County Development District No. 1 to add an additional member to its board of directors under Local Government Code chapter 383 (RQ-0002-AC)

Dear Mr. Mills:

You ask whether Local Government Code chapter 383 authorizes the board of Hood County Development District No. 1 (“the District”) to appoint a sixth director.¹ You tell us that the District’s board of directors believes Local Government Code subsection 383.048(d) allows such an appointment despite the statement in Local Government Code subsection 383.041(a) that the District is to be governed by a board of five directors. Request Letter at 1; TEX. LOC. GOV’T CODE § 383.041(a). In particular, you tell us that “[t]he District’s position is that the reference [in subsection 383.048(d)] to appointing *another* director allows them to add one member to the board, raising the total from five to six.” Request Letter at 1.

Your question requires us to consider several provisions in chapter 383, which provides for county development districts. *See generally* TEX. LOC. GOV’T CODE §§ 383.001–.123. Subsection 383.041(a) states that “[a] district is governed by a board of five directors appointed by the commissioners court of the county in which the district is located.” *Id.* § 383.041(a). Section 383.047 directs the board’s members to “organize by electing a president, a vice president, a secretary, and any other officer the board considers necessary.” *Id.* § 383.047. Subsection 383.048(b) sets forth the duties of the president and vice president, while subsection 383.048(c) establishes the secretary’s duties. *Id.* § 383.048(b), (c). Subsection 383.048(d), the provision at issue in your request, provides that the “board may appoint another director, the general manager, or an employee as assistant or deputy secretary to assist the secretary.” *Id.* § 383.048(d).

Courts “interpret statutes by looking to their plain language and construing the text in light of the statute as a whole.” *City of Austin v. Quinlan*, 669 S.W.3d 813, 821 (Tex. 2023). By its plain

¹See Letter from Honorable Matthew A. Mills, Hood Cnty. Att’y, to Off. of the Provisional Att’y Gen. Angela Colmenero at 1–2 (July 31, 2023), <https://www.texasattorneygeneral.gov/sites/default/files/request-files/request/2023/RQ0002AC.pdf> (“Request Letter”).

text, subsection 383.048(d) merely delineates the pool of individuals from which the assistant or deputy secretary may be drawn: “another director, the general manager, or an employee” TEX. LOC. GOV’T CODE § 383.048(d). Read in context, the phrase “another director” refers to a director other than the director that is serving as the secretary. The provision cannot be construed as independent authority for the District to add an additional board member, especially in light of subsection 383.041(a), which identifies the number of board members as five.² Accordingly, a court would likely conclude that subsection 383.048(d) does not allow the District’s board to appoint a sixth director.

²Other aspects of Local Government Code chapter 383 also support this conclusion. See, e.g., TEX. LOC. GOV’T CODE §§ 383.041(a) (providing that directors must be “appointed by the commissioners court”), 383.048(a) (“Three directors constitute a quorum and a concurrence of three is sufficient in any matter relating to the business of the district.”), 383.064 (providing that district expenditures “must be signed by at least three directors”).

S U M M A R Y

Local Government Code section 383.041 provides that a county development district is governed by a board of five directors. Local Government Code subsection 383.048(d) establishes who may serve as a board's assistant or deputy secretary. A court would likely conclude that subsection 383.048(d) does not authorize a county development district to add a sixth director to its board.

Very truly yours,



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