

RQ-0394-JC



COUNTY of KLEBERG  
KINGSVILLE, TEXAS

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OFFICE OF THE ATTORNEY GENERAL  
EXECUTIVE ADMINISTRATION

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6-20-01

KINGSVILLE, TEXAS 78363

FILE # ML-42041-01

June 14, 2001

I.D. # 42041

The Honorable John Cornyn  
Office of the Attorney General  
P.O. Box 12548  
Capitol Station  
Austin, Texas 78711

RECEIVED  
JUN 20 2001  
OPINION COMMITTEE

Dear Attorney General Cornyn:

As the Auditor of Kleberg County, I am respectfully submitting the following questions to you for an opinion (formal or letter opinion). Please be advised that the Kleberg County Attorney has declined to provide a legal opinion on these questions. (Attachment)

QUESTION #1:

Whether or not it is permissible for a county to setup a sick leave pool with contributed hours, but no money attached to the hours to support the pool.

QUESTION #2:

Whether or not accrued sick leave contributed to the county sick leave pool, as discussed in Local Government Code Section 157.074, includes unvested sick leave.

QUESTION #3:

Whether or not an employee may contribute unvested sick leave to the county sick leave pool mentioned in Local Government Code Section 157.074.

QUESTION #4:

Whether or not it is proper for a county to deduct the value of donated sick leave from the department of the person requesting the sick leave. Or, should the value of the donated sick leave come from the department of the employee donating the sick leave hours.

BACKGROUND:

In accordance with Local Government Code Sections 157.072 – 157.074, Kleberg County instituted a sick leave pool in fiscal year 2000 for the purpose of providing employees who have catastrophic illnesses with a means to obtain sick leave hours after the total depletion of their own leave hours. A Committee administers the pool and the personnel policy manual of the county allows employees to donate up to five (5) days of sick leave hours a year. No money is attached to the hours at the time of donation, and a policy on whose budget is responsible for the money associated with the donated sick leave has not been formalized. Sick leave for Kleberg County employees is not a vested benefit as the county has no obligation to make payment on accrued sick leave hours when the employee terminates,<sup>1</sup> whereas vacation time is a vested benefit for these employees.

SUMMARY:

In my opinion, based on generally accepted accounting principles and Financial Accounting Standard No. 43, it does not seem appropriate for employees to donate unvested sick leave hours. Instead, vested vacation hours should be contributed to the sick leave pool. Furthermore, it seems inequitable to place the entire burden of the value of the sick leave on the department of the employee requesting the additional leave time from the pool. Notwithstanding, there should be some written policy defining which department(s) is responsible for the funds associated with the donated hours.

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<sup>1</sup> Governmental generally accepted accounting principles (GAAP), and Financial Accounting Standard (FAS) No. 43 indicate that sick leave is not a vested benefit for employees when the governmental entity has no obligation to make payment on accrued sick leave hours at the time of employee termination

June 14, 2001

Sincerely,

A handwritten signature in cursive script that reads "Pallie Wallace". The signature is written in black ink and is positioned above the printed name and title.

Pallie Wallace  
Kleberg County Auditor

Attachment: June 7, 2001, letter Kleberg County Attorney, Ms. Delma Rios,  
from Kleberg County Auditor, Pallie Wallace

700 E. KLEBERG STREET • KINGSVILLE, TEXAS • 78363  
PHONE: 361-595-8526 • FAX: 361-595-8536

COUNTY BERG  
KING TEXAS



COUNTY of KLEBERG  
KINGSVILLE, TEXAS

June 7, 2001

Ms. Delma Rios  
Kleberg County Attorney  
700 E. Kleberg Street  
Kingsville, Texas 78363

Dear Ms. Rios:

The following questions are respectfully submitted for a legal opinion:

**QUESTION #1:**

Whether or not accrued sick leave contributed to the county sick leave pool as discussed in Local Government Code Section 157.074 refers to unvested sick leave.

**QUESTION #2:**

Whether or not an employee may contribute unvested sick leave to the county sick leave pool mentioned in Local Government Code Section 157.074.

**QUESTION #3:**

Whether or not it is proper for a county to deduct the value of donated sick leave from the department of the person requesting the sick leave. Or, should the value of the donated sick leave come from the department of the employee donating the sick leave hours.

Sincerely yours,

A handwritten signature in cursive script that reads "Pallie J. Wallace".

Pallie J. Wallace