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OPINION COMMITTEE

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August 6, 2015

VIA Electronic Mail: Opinion_committee@texasattorneygeneral.gov

Honorable Ken Paxton
Attorney General of Texas
Request for Opinion T.G.C. 402.042
209 W. 14th Street, 6th Floor
Austin, Texas 78701

Re: Does the longevity pay granted to hired employees by commissioner's court order follow the individual should they run for office and successfully be elected?

Dear Mr. Paxton:

Factual Background

The current elected Webb County Clerk was a Webb County employee for many years prior to her election as Webb County Clerk, and due to her years of service and status as an employee she was part of the Webb County Commissioner Court's order to grant longevity pay to employees who have been employed more than 15 years. Subsequently, she ran for office in 2003 and was elected as the Webb County Clerk and currently remains the Webb County Clerk. The order states that if you are hired as a Webb County Employee and have served more than 15 years you would be entitled to longevity pay. See **Exhibit 1 & 2**.

Likewise, under Texas Local Government Code 152.014 an elected county official is afforded a grievance process regarding salary issues. At no point in time, since her election, has the Webb County Clerk exercised such rights under Texas Local Government Code 152.016

Authorities

Texas Local Government Code §159.032:

Sec. 159.032. DEFINITIONS. In this subchapter:

(1) "County officer" means a sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, or county purchasing agent. The term does not include a county officer as defined by Section 159.002.

(2) "Precinct officer" means a constable.

(3) "County judicial officer" means a justice of the peace or a master, magistrate, or referee appointed by a justice of the peace.


(4) "County employee" does not include a person covered by Subdivision (1), (2), or (3).

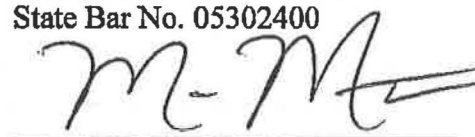
Questions:

1. Does a Commissioner's Court order to grant longevity pay to a hired County employee continue to follow said employee if said employee then becomes an elected county official that by statute is not defined as an employee?
2. Does the elected county official waive the issue of longevity pay if she/he has never raised the issue during the salary grievance phase provided for under Texas Local Government Code 152.016 of the budget approval process for the corresponding years 2003-2015?

Thank you, in advance for your attention to this matter. If you have any questions, or if you require additional information, please do not hesitate to call. 956-523-4044.

Respectfully submitted,


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