

Opinion Committee

RQ-0152-KP

From: **RECEIVED** Tony Sims <tsims@co.chambers.tx.us>
Sent: Tuesday, February 28, 2017 3:40 PM
To: FEB 28 2017 Opinion_Committee
Subject: Request for Opinion
Attachments: **OPINION COMMITTEE** 3303 Fire Marshal and Safety Coordinator.pdf; TAX CODE CHAPTER 324.pdf

FILE # ML-48131-17
ID. # 48131

Dear Sir,

I respectfully request your opinion related to the use of tax revenue from Tax Code Chapter 324 for the following intention:

“Whether a commissioners’ court is authorized to fund any part of the County Fire Marshall / Safety Coordinator’s salary from Tax Code Chapter 324 Health Services Sales Tax Revenues.”

Background:

Chambers County, Texas’ Commissioners’ Court desires to hire a full time Fire Marshall / Safety Coordinator (see attached job description) and fund 50% of the annual salary and benefits from Tax Code 324 Health Services Sales Tax Revenues (see attached tax code). Tax Code Chapter 324, Subchapter D, Sec. 324.081 USE OF TAX REVENUE states:

Revenue from the tax imposed may be used only to provide health services in the county. The county imposing the tax may allocate all or part of that revenue to:

- (1) a county hospital authority or a hospital district having the same boundaries as the county; or
- (2) a public health district in which the county participates.

I sincerely appreciate your opinion on this matter.

Respectfully,

Tony Sims
Chambers County Auditor
404 Washington Avenue
PO Box 910
Anahuac, Texas 77514
Phone: 409-267-2405

Job Description: COUNTY FIRE MARSHAL/SAFETY COORDINATOR

CLASS NO. 3303

EEOC Category: Protective Service Worker

PAY GROUP: 33

FLSA: Exempt

SUMMARY OF POSITION

Conducts fire prevention and inspection activities for unincorporated Chambers County.

Coordinates activities for safety program to include but not limited to monthly safety training programs, accident investigations, safety audits, and job site inspection.

Assists Emergency Management as needed.

ORGANIZATIONAL RELATIONSHIPS

1. Reports to: Chambers County Commissioners Court
2. Directs: Secretary II (Commissioner Pct#2/Emergency Management)
3. Other: Has contact with local fire departments, contractors, other county employees, and the general public. Has contact with representatives in the Emergency Management field, other county employees, and the general public.

EXAMPLES OF WORK

Essential Duties*

Performs duties of office as outlined in Local Government Code Ch. 352;

Performs inspection and prevention activities on public and commercial buildings;

Performs fire safety inspection of private residences upon request;

Reviews plans of proposed new commercial buildings;

Issues orders for correction of fire hazards;

Performs fire and arson investigations as needed;

Works with Investigators from Sheriff's Office as requested;

Participates in public fire prevention and education activities and programs;

Interacts professionally fire department personnel, contractors, county and city officials, other employees, and the general public;

*For the purpose of compliance with the Americans with Disabilities Act (ADA)
This job description does not take into account potential reasonable accommodations.
Updated and Approved CC 2/14/2017

CLASS NO. 3303 (Continued)

Adheres to Chambers County Personnel Policies.

Prepare and file TIER TWO report on behalf of Chambers County.

Required by DSHS: The reporting of any hazardous chemicals used or stored at any facility that meets or exceeds the established thresholds. A calculated filing fee is also required. The filing deadline is March 1st of each year.

Coordinate and monitor annual fire extinguisher inspection for all county buildings and vehicles.

Maintain required MSDS displays for all county buildings.

Coordinate with instructor, reserve meeting room, send out notification and schedule CPR classes.

Monitor, receive and review all pre-placement physicals. Notify appropriate department of results. Maintain all files related to physicals, post-accident, return to duty and random testing.

Receive, verify and distribute invoices for services relating to all aspects of the drug and alcohol policy, including pre-placement physicals.

Responsible for administrating the county's quarterly random testing program. Fulfill the responsibilities of the DER, Designated Employer Representative, according to the requirements set by DOT.

Review and research any changes needed in the drug & alcohol policy to assure compliance with all rules and regulations associated with DOT compliance.

Work with TAC to implement changes to improve our safety program and decrease our cost of workers' comp. insurance premiums. Submit application and necessary documents to TAC in order to be eligible for annual Safety Award.

Work with auditor's office and TAC on issues of public liability.

Schedule and monitor air quality testing for county buildings.

Understand and comply with all confidentiality requirements.

Schedule and hold quarterly Safety Committee meetings. Provide Research and answer questions that arise from meetings.

Review, research and update any needed changes to the Accident Prevention Plan.

Schedule and present Safety Orientation to all summer workers.

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Chambers County

CLASS NO. 3303 (Continued)

Schedule Department heads safety meetings.

Assist with the filing of injury reports from departments.

Maintain database of all injury reports filed for county review.

Negotiate contracts with various companies for drug testing and pre-placement physicals.

Assists Emergency Management with functions as needed.

Emergency Management Performance Grant Advisor

REQUIRED KNOWLEDGE, SKILLS, AND ABILITIES

Knowledge of: applicable regulations pertaining to county fire marshal's office; fire department organization and operations; Safety principles and safe work practices; hazardous materials in the workplace.

Skill/Ability to: Operate a computer using email, word processing and spreadsheet software; analyze and interpret data; remain calm in stressful situations; establish and maintain working relationships with regulatory agencies; other county employees; and demonstrate proficiency in both oral and written communications.

Or any equivalent combination of experience and training which provides the required knowledge, skills, and abilities.

ACCEPTABLE TRAINING AND EXPERIENCE

High School graduation or equivalent;

Experience in Emergency Operations

Prior experience as a fire inspector, arson investigator and/or fire marshal;

CERTIFICATES AND LICENSES

Minimum:

TCFP Fire Inspector;

TCFP Arson Investigator;

TCOLE Peace Officer;

Appropriate Texas Driver License;

NIMS IS-300 and IS-400 level certified.

HazMat Awareness Level Training

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Chambers County

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TAX CODE

TITLE 3. LOCAL TAXATION

SUBTITLE C. LOCAL SALES AND USE TAXES

CHAPTER 324. COUNTY HEALTH SERVICES SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 324.001. COUNTY SALES AND USE TAX ACT APPLICABLE. Except to the extent that a provision of this chapter applies, Chapter 323 applies to the tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 324.021. TAX AUTHORIZED. (a) A county having a population of 50,000 or less may adopt, increase, decrease, or abolish the sales and use tax authorized by this chapter at an election held in the county.

(b) A county may not adopt or increase a tax under this chapter if as a result of the adoption of or increase in the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county.

(c) If the voters of a county approve the adoption of or the increase in the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county, the election to adopt a sales and use tax under this chapter or increase the tax has no effect.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 1, eff. June 17, 2005.

Sec. 324.022. TAX RATE. (a) The tax authorized by this chapter may be imposed at the rate of one-half, five-eighths, three-fourths, seven-eighths, or one percent.

(b) The rate may be reduced in one or more increments of one-eighth of one percent to a minimum of one-half of one percent or increased in one or more increments of one-eighth of one percent to a maximum of one percent, or the tax may be abolished.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 2, eff. June 17, 2005.

Sec. 324.023. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption, increase, decrease, or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the increase, decrease, or abolition of the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 3, eff. June 17, 2005.

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 324.061. ELECTION PROCEDURE. (a) An election to adopt, increase, decrease, or abolish the tax authorized by this chapter is called by the adoption of an order by the commissioners court of the county. The commissioners court shall call an election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions the commissioners court to call the election.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of county) at the rate of _____ (one-half, five-eighths, three-fourths, seven-eighths, or one, to be inserted as appropriate) percent to provide revenue for health services in the county."

(b-1) At an election to increase or decrease the tax, the ballot shall be prepared to permit voting for or against the proposition: "The (increase or decrease) of the local sales and use tax in (name of county) to the rate of _____ (one-half, five-eighths, three-fourths, seven-eighths, or one, to be inserted as appropriate) percent to provide revenue for health services in the county."

(c) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the local health services sales and use tax in (name of county)."

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 4, eff. June 17, 2005.

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 324.081. USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to provide health services in the county. The county imposing the tax may allocate all or part of that revenue to:

- (1) a county hospital authority or a hospital district having the same boundaries as the county; or
- (2) a public health district in which the county participates.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.