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OPINION COMMITTEE

August 15, 2017

J. BRYAN CLAYTON
CONCHO COUNTY ATTORNEY

FILE # ML-48191-17
LO.# 48191

RQ-0175-KP

Texas Attorney General's Office
ATTN: Opinions Committee
P.O. Box 12548
Austin, Texas 78711

Dear Committee Members:

On behalf of the Concho County Commissioner's Court, I request your issuance of an opinion regarding county government funding. The issue has not been specifically addressed by any state law opinion or statute. The question presented is as follows:

In a county where county commissioners spend a substantial portion of their worktime personally performing road and bridge maintenance, may funds from the road and bridge account be transferred to the county's general account for payment of all or a part of the commissioner's salary?

Background and Legal Authority:

Concho County is a rural county in West Central Texas with a population of less than 4,500 people. The county seat is Paint Rock, Texas.

Revenue for the next year is tight due to the loss of the county's largest single employer, the Eden Detention Facility, which was a privately-run prison for federal prisoners.

Concho County's four commissioners are responsible for road maintenance in their precincts. A significant portion of the work is performed by the commissioners personally. They are paid a salary from the county's general revenue fund.

In order to balance our budget, it would be advantageous for the county to draw all or a portion of the commissioner's salary from the Road and Bridge Fund, especially in light of the fact the commissioners are personally involved in road and bridge maintenance in their respective precincts.

No law specifically permits this transfer of funds from Road and Bridge Fund to General Fund for payment of salary.

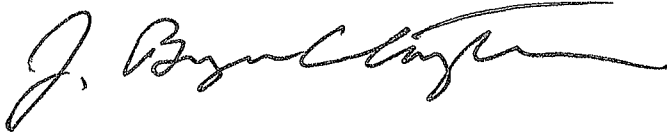
Although I have been unable to acquire a copy, an attorney with the Texas Association of Counties (TAC) has informed me that an Attorney General opinion issued in the state of Arkansas has allowed such transfers in their state. The TAC attorney is Paul Mills, who may be reached at (512) 478-8753. Hopefully he can provide a copy of that Arkansas opinion or a citation, so that it might be consulted.

P.O. BOX 236
PAINT ROCK, TEXAS 76866

PHONE: (325) 732-4315
FAX: (325) 732-2040

I hope that you will address this issue. If I may provide you with more information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bryan Clayton". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

J. Bryan Clayton
Concho County Attorney
Concho County, Texas

JBC/ljm