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By Opinion Committee at 2:54 pm, Aug 27, 2024

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**Aransas County Auditor
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August 28, 2024

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548
opinion.committee@oag.texas.gov

Re: Request for Attorney General Opinion regarding the authority of the Aransas County Commissioners Court to create a new attorney position specifically to provide legal support to the Commissioners Court and county departments, and subsequently defund an existing civil attorney position within the County Attorney's Office.

Dear Opinion Committee,

I am writing to request an official opinion from your office regarding the authority of the Aransas County Commissioners Court to create a new attorney position specifically to provide legal support to the Commissioners Court and county department heads, and to subsequently defund an existing civil attorney position within the County Attorney's Office.

Background Information:

The Aransas County Commissioners Court is considering a proposal to create a new legal position that would report directly to the Commissioners Court and provide dedicated legal support to both the Commissioners Court and various County department heads. This position would be distinct from the civil attorney roles currently housed within the County Attorney's Office.

To offset the cost of this new position, the Commissioners Court is also contemplating the defunding of an existing civil attorney position within the County Attorney's Office. The rationale behind this proposal is to provide the Commissioners Court and department heads with more direct and specialized legal support, ensuring more efficient handling of legal matters and reducing potential conflicts of interest.

Relevant Legal Authorities:

- Texas Local Government Code Chapter 81 outlines the general powers and duties of the Commissioners Court, including the management of county business and finances.
- Texas Local Government Code Section 41.007 establishes the role of the County Attorney and the provision of legal advice to the county and its officers.

Given these statutory provisions, there are questions regarding the extent of the Commissioners Court's authority to create a new legal position and reallocate funding from the County Attorney's Office to support this role.

Questions Presented:

1. Does the Aransas County Commissioners Court have the authority under Texas law to create a new attorney position to provide legal support exclusively for the Commissioners Court and department heads?
2. Is the Commissioners Court permitted to defund an existing civil attorney position within the County Attorney's Office in order to finance this newly created legal position?
3. If such actions are permissible, what are the legal limitations, if any, that the Commissioners Court must observe when reallocating responsibilities and funding between these positions?

I appreciate your consideration of this request and look forward to your guidance on these matters. If any additional information is needed to assist in your analysis, please do not hesitate to contact me.

Thank you for your attention to this matter.

Regards,



Jacky Cockerham
County Auditor

cc: File
Aransas County Judge Ray Garza

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Re: Request for Attorney General Opinion regarding the authority of the Aransas County Commissioners Court to move a position from the County Attorney's Office to the County Auditor's Office.

Dear Opinion Committee,

I am writing to request an official opinion from your office regarding the authority of the Aransas County Commissioners Court to move the position of Contracts and Procurement Specialist from the County Attorney's Office to the County Auditor's Office, including the transfer of funding associated with the position.

Background:

The Contracts and Procurement Specialist position in Aransas County currently resides within the County Attorney's Office. This role is responsible for managing contracts, overseeing procurement processes, and ensuring compliance with legal and regulatory requirements. Recently, there has been discussion about transferring this position to the County Auditor's Office, where it would align more closely with financial oversight and auditing functions. Along with this move, the proposal includes transferring the funding allocated for this position from the County Attorney's Office to the County Auditor's Office.

The Commissioners Court is considering this change to improve operational efficiency and better integrate procurement activities with the County's financial management processes. However, questions have arisen regarding the legal authority of the Commissioners Court to make such a reassignment, including the reallocation of budgeted funds for this position.

Legal Authorities:

To our knowledge, there is no explicit statutory guidance directly addressing the transfer of a specific position and its associated funding between county departments. Relevant legal authorities include:

- Texas Local Government Code Chapter 111 (pertaining to the budget process and amendments by the Commissioners Court)
- Texas Local Government Code Chapter 152 (regarding the general powers of the Commissioners Court over county officers and employees)

Given the absence of direct statutory guidance, we seek your opinion on the following questions:

1. Does the Aransas County Commissioners Court have the legal authority to move the position of Contracts and Procurement Specialist from the County Attorney's Office to the County Auditor's Office?
2. If such a move is permissible, does the Commissioners Court also have the authority to transfer the funding allocated for this position from the County Attorney's Office to the County Auditor's Office as part of the annual or amended budget process?

Your guidance on these questions will assist the Commissioners Court in making informed decisions that comply with Texas law.

Thank you for your attention to this matter. We appreciate your assistance in providing clarity on these issues.

Regards,



Jacky Cockerham
County Auditor

CC: File

Aransas County Judge Ray Garza