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May 6, 2025

Honorable Ken Paxton, Attorney General
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548
Via Email: opinion.committee@oag.texas.gov

Dear General Paxton,

I write to request an opinion regarding the applicability of Local Government Code §120.002 to Deputy Constables budgeted to a constable's office but performing services on behalf of a local independent school district as school resource officers under an Interlocal Agreement.

I would respectfully request that the opinion be completed and released as expeditiously as possible.

Thank you for your opinion on this matter,

A handwritten signature in blue ink that reads "Joe D. Gonzales". The signature is written in a cursive style and is positioned above a horizontal line.

Joe D. Gonzales,
Criminal District Attorney
Bexar County, Texas



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Attn: Opinion Committee
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Austin, Texas 78711-2548
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RE: Request for Attorney General Opinion Regarding Applicability of Local Government Code § 120.002 to Deputy Constables Subsequently Assigned Under an Interlocal Agreement

Dear General Paxton:

This is to request that the Attorney General of Texas issue an Attorney General opinion pursuant to Sections 402.042-.043 of the Texas Government Code.

QUESTION PRESENTED

Does Texas Local Government Code § 120.002(a)(2) prohibit the County from reducing or eliminating deputy constable positions that were originally allocated and funded to the constable's office but subsequently assigned under a contract with an independent school district ("ISD") if that contract is later terminated by the ISD? Specifically, a Bexar County Commissioner believes that since the positions performing services for the ISD may not then be classified as performing "policing, criminal investigation, and responding to calls for service," those positions would then be exempt from the prohibitions contained in Section 120.002.

BACKGROUND OF REQUEST

On behalf of and at the specific request of the Precinct 3 Commissioner of Bexar

County, Texas, I respectfully submit this request for an opinion from your office concerning the interpretation and application of Texas Local Government Code § 120.002, particularly subsection (a)(2), as it pertains to peace officer positions allocated to a constable's office which the constable then re-allocates to an ("ISD") under an Interlocal Agreement for the provision of law enforcement services as School Resource Officers (SROs). Under the terms of the agreement, the County is reimbursed by the ISD for the cost of these positions, including hours worked on behalf of the ISD, mileage, and certain additional expenses.

A question has been raised regarding whether peace officer positions currently budgeted and assigned to the Precinct 3 Constable that work under an Interlocal Agreement with an ISD may be reassigned to other precincts if the Interlocal Agreement were terminated without violating Section 120.002(a)(2) of the Texas Government Code. This is considering the fact that these positions are permanent peace officer positions budgeted for and assigned to Precinct 3 Constable's Office. The Bexar County Precinct 3 Commissioner's interpretation is that under such circumstances, Section 120.002(a)(2) does not prohibit a reassignment or reallocation of resources by Bexar County if the Interlocal Agreement with the ISD were ultimately terminated and has requested that this office submit a request for an opinion confirming his position.

ARGUMENT AND AUTHORITIES

When interpreting statutes the goal is to try to give effect to legislative intent. *See Monsanto Co. v. Cornerstones Mun. Util. Dist.*, 865 S.W.2d 937, 939 (Tex. 1993). In drafting a statute, the Legislature tries to say what it means, and therefore the words it chooses should be the surest guide to that legislative intent. *See Fitzgerald v. Advanced Spine Fixation Systems, Inc.*, 996 S.W.2d 864, 866 (Tex. 1999). Statutes must be enforced as written and the text that lawmakers chose should not be rewritten. *See Jaster v. Comet II Const., Inc.*, 438 S.W.3d 556, 562 (Tex. 2014) (citing *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 443 (Tex.2009)).

Any interpretive analysis should be confined to the words of the statute and the plain meaning of those words should be applied "unless a different meaning is apparent from the context, or the plain meaning leads to absurd or nonsensical results." *Id.* (citing *Molinet v. Kimbrell*, 356 S.W.3d 407, 411 (Tex.2011)); *see also* Tex. Gov't Code § 311.011(a) ("Words shall be read in context and construed according to the rules of grammar and common usage."). While interpretations must consider the specific statutory language at issue, that analysis must consider the statute as a whole, rather than isolated provisions. *Id.* (citing *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011)). Ultimately, statutes should be read contextually giving effect to every word, clause, and sentence. *See In re Office of Att'y Gen.*, 422 S.W.3d 623, 629 (Tex. 2013).

Section 120.002 of the Texas Local Government Code was enacted as part of Senate Bill 23 during the 87th Legislature and applies specifically to counties with a population of more than 1.2 million. Tex. Loc. Gov't Code § 120.001. It establishes a requirement that, under certain circumstances, a county must obtain voter approval before reducing funding to a law enforcement agency. *Id.* § 120.002. The Legislature's explicit policy goal was to protect funding for law enforcement agencies by imposing limitations on the discretion of

certain counties with respect to reducing the funds to a law enforcement agency without the vote of its citizens. The statute embodies a presumption that maintaining or increasing funding for law enforcement serves the public interest, and any significant reduction should be subject to direct democratic input. The Legislature framed this provision as a public accountability measure, ensuring that substantial changes to public safety funding do not occur solely through the discretion of county officials, especially in high-population counties where law enforcement resources are deemed to be more critical.

The statute was enacted in direct response to certain local governments that considered or implemented reductions in law enforcement budgets in the context of broader criminal justice reform movements. Statements made during legislative hearings indicate concern that such reductions could jeopardize public safety or undermine law enforcement capabilities. Senate Bill 23 was intended to establish financial disincentives and procedural barriers to ensure continuity in law enforcement funding. Legislative debates reveal a clear intent to limit local discretion over law enforcement funding requiring voter approval.

Section 120.002 exemplifies state preemption over county-level budget authority in accordance with Texas constitutional home rule and general law principles. While counties are granted considerable discretion under Article V, § 18 of the Texas Constitution, the Legislature retains plenary power to regulate counties as political subdivisions. This section does not eliminate a county's ability to reduce law enforcement budgets, but conditions such reductions on voter approval. Violations of Section 120.002 may trigger an oversight process involving the Texas Comptroller under Section 120.004, and in certain cases, a county may be required to reverse the reduction or face budgetary consequences.

In relevant part, Section 120.002(a) provides:

“Except as provided by Section 120.003, a county shall hold an election in accordance with this chapter if the county adopts a budget for a fiscal year that, compared to the budget adopted by the county for the preceding fiscal year:

(1) reduces for a law enforcement agency, excluding a 9-1-1 call center, *with primary responsibility for policing, criminal investigation, and answering calls for service:*

(A) for a fiscal year in which the overall amount of the budget is equal to or greater than the amount for the preceding fiscal year, the appropriation to the agency;

(B) for a fiscal year in which the overall amount of the budget is less than the amount for the preceding fiscal year, the appropriation to the agency as a percentage of the total budget;

...

(2) reallocates funding or resources to another law enforcement agency.”

Tex. Loc. Gov't Code § 120.002 (emphasis added). Subsection (a)(1) applies exclusively to

reductions in funding to law enforcement agencies with primary responsibility for *policing, criminal investigation, and responding to calls for service*. See *id.* § 120.002(a)(1). In contrast, Subsection (a)(2) does not contain the same limitation relating to the “policing, criminal investigation, and answering calls for service” and instead applies broadly to **any** instance in which a county “reallocates funding or resources to another law enforcement agency.” See *id.* § 120.002(a)(2).

The constable’s office is a constitutionally established law enforcement entity, and deputy constables are commissioned peace officers pursuant to Article 2.12 of the Texas Code of Criminal Procedure. The positions at issue in this request were formally allocated through the County’s annual budget process and are assigned to the constable’s office. Currently, the constable utilizes these budgeted positions to provide law enforcement services to an ISD for which the ISD reimburses the County for the costs of the hourly rate, benefits, mileage and additional other costs under the Interlocal Agreement. If the ISD contract is terminated, these positions would remain allocated and funded within the constable’s budget unless and until affirmatively eliminated by the Commissioners Court.

The Precinct 3 Commissioner’s interpretation is that under these circumstances, Section 120.002 would not apply, and the resources currently budgeted to the constable’s office could be reallocated by the County to other offices in future fiscal years without seeking voter approval. However, the plain text of subsection (a)(2) applies whenever a county “reallocates funding or resources to another law enforcement agency,” without imposing any requirement that either the agency losing funding or the agency receiving it meet any definition related to primary policing responsibility. Under established principles of statutory interpretation, the Legislature’s deliberate decision to exclude qualifying language from Subsection (a)(2) should be given effect. See Tex. Gov’t Code § 311.021(2) (“In enacting a statute, it is presumed that... the entire statute is intended to be effective.”).

Subsection (a)(2) applies to any attempt to reassign resources of a law enforcement agency once budgeted and allocated to that office *regardless* of whether the constable’s office holds primary responsibility for policing, criminal investigation, and responding to calls for service. Given the clear language of the statute and the legislative intent, it appears that if the County were to attempt to reallocate the resources budgeted to the constable’s office to another precinct or law enforcement agency in a future budget cycle, such an action would constitute a “reallocation of funding or resources to another law enforcement agency” under Section 120.002(a)(2) and could potentially require voter approval. See Tex. Loc. Gov’t Code § 120.002(a)(2); 002(b).

CONCLUSION

Texas Local Government Code § 120.002(a)(2) applies to deputy constable positions that are budgeted and assigned to a constable’s office, even if those positions are used by the constable to provide law enforcement services to an ISD and regardless of whether the constable’s office qualifies as a “law enforcement agency with primary responsibility for policing” under § 120.002(a)(1). The broader language of subsection (a)(2) governs the reallocation of funding or resources between law enforcement agencies without restricting its scope to agencies with general policing responsibilities. Therefore, if the County were to

adopt a budget that reassigns these positions to another constable precinct, thereby reallocating funding or resources to a different law enforcement agency, such an action would be subject to the mandatory election requirement in § 120.002(b).

In light of the above, I respectfully request that the Attorney General issue an opinion clarifying the correct interpretation of § 120.002(a)(2) in these circumstances considering the request from the Precinct 3 Commissioner.

Thank you for your attention to this matter. I look forward to your office's opinion on the proper interpretation of this provision. Should you require further clarification, I am available to discuss it in greater detail.

Sincerely,

A handwritten signature in blue ink that reads "Joe D. Gonzales". The signature is written in a cursive style with a horizontal line underneath the name.

Joe D. Gonzales
Criminal District Attorney
Bexar County, Texas

cc: Commissioner Grant Moody
via email