



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL,
ATTORNEY GENERAL**

July 23, 1949.

**Hon. Stuart B. Lumpkins
County Attorney
Ellis County
Waxahachie, Texas**

Opinion No. V-861.

**Re: The authority of the
Commissioners' Court
to employ the son of
the County Road Engin-
eer on road jobs of
the County.**

Dear Mr. Lumpkins:

**Your request for an opinion relating to the
Nepotism Law is predicated upon the following question:**

**"Can the County Commissioners' Court le-
gally employ the Chief Executive Officer's son
on the road jobs of the County where the Coun-
ty has qualified under the Optional Road Law
of 1947, Art. 6716-1, Civil Statutes?"**

**It is assumed that your request has reference to the
County Road Engineer instead of the Chief Executive Of-
ficer.**

**Article 432, V.P.C., as amended by H.B. 508,
51st Legislature, commonly referred to as the Nepotism
Law, is as follows:**

**"No officer of this State or any officer
of any district, county, city, precinct,
school district, or other municipal subdivi-
sion of this State, or any officer or member
of any State, district, county, city, school
district or other municipal board, or judge of
any court, created by or under authority of
any General or Special Law of this State, or
any Member of the Legislature, shall appoint,
or vote for, or confirm the appointment to any
office, position, clerkship, employment or du-
ty, of any person related within the second
degree by affinity or within the third degree
by consanguinity to the person so appointing
or so voting, or to any other member of any
such board, the Legislature, or court of which
such person so appointing or voting may be a**

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member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever; provided that nothing herein contained shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for a period of two (2) years prior to the election or appointment of the officer or member appointing, voting for, or confirming the appointment of such person to such office, position, clerkship, employment or duty."

In Attorney General's Opinion No. V-537, dated April 9, 1948, a copy of which is herewith enclosed, this office stated that the County Road Engineer, appointed pursuant to the provisions of the Optional County Road Law of 1947, is a public officer. It was further stated that neither the Commissioners' Court nor any of its members are authorized to hire or fire any county road personnel without the approval and consent of the County Road Engineer.

By reason of the foregoing it is our opinion that the Commissioners' Court of Ellis County may not legally employ the son of the County Road Engineer on road jobs in said county. Therefore, your question should be answered in the negative.

SUMMARY

The Commissioners' Court of Ellis County may not legally employ the son of the County Road Engineer on road jobs in said County inasmuch as the same is prohibited by the terms of Article 432, V.P.C. (Nepotism Law).

Very truly yours,

ATTORNEY GENERAL OF TEXAS

APPROVED

Joe R. Greenhill

FIRST ASSISTANT
ATTORNEY GENERAL

BW:bh

By

Burnell Waldrep
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