



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. ELLI,
ATTORNEY GENERAL**

May 29, 1974

**The Honorable W. L. Hardwick
County Attorney
County of Live Oak
George West, Texas 78022**

Opinion No. H- 314

**Re: Increases in salaries of
elected county officials under
grievance procedure of Article
3912k, V. T. C. S.**

Dear Mr. Hardwick:

Your opinion request advises us that two Justices of the Peace in Live Oak County requested a hearing before the Grievance Committee as authorized by Article 3912d § 2 (d). The hearing was to request increase in their salaries. The committee was not unanimous, but each Justice received at least 6 votes to grant the increase they requested. Thereafter, the recommendation of the Grievance Committee was delivered to the Commissioners Court and the Court considered and granted their increase at its next meeting.

You have asked us in effect whether Attorney General Opinion No. H-11 dated February 15, 1973, stating that any increase in salaries of elected county and precinct officers must await budget hearings for the next fiscal year, applies to elected county or precinct officers who have complied with the procedures set out in Article 3912k, § 2 (b), (c), and (d), V. T. C. S., pertaining to the Grievance Committee.

It is our opinion that the grievance procedure established in § 2 provides a procedure for obtaining immediate raises for elected county and precinct officials, without waiting for regular budget hearings. We are advised that this is a commonly followed practice. This act establishes a county grievance committee composed of nine members selected as set forth in subsection (b) and (c) of § 2. Subsection (d) of § 2 establishes the purpose and functions of this committee as follows:

"(d) Any elected county or precinct officer who is aggrieved by the setting of his salary, expenses, or other allowance by the commissioners court may request a hearing before the committee. The request shall be in writing, shall state the manner in which he is aggrieved, and shall be delivered to the chairman of the committee. The chairman shall announce the time and place of the hearing, which shall be within 30 days after receipt of the request. If, after a hearing, the committee by a vote of six of its voting members decides to recommend a change in the salary, expenses, or other allowance of the person requesting the hearing, it shall prepare its recommendation in writing and deliver it to the commissioners court, which shall consider the recommendation at its next meeting. A written recommendation signed by all nine members and delivered to the commissioners court becomes effective without the action of the commissioners court on the first day of the month following its delivery to the commissioners court."

The question you have asked is if an elected county or precinct official follows the procedure of subsection (d), supra, and if the Commissioners Court grants the recommended salary increase, can it then amend the county budget to implement the increase.

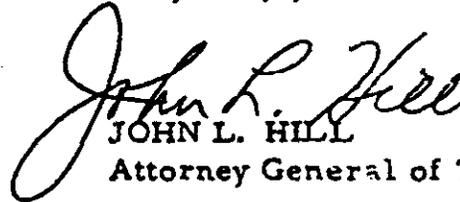
Subsection (d) provides that if at least six members of the grievance committee vote to recommend the increase it shall deliver its recommendation to the court in writing and that the court "shall consider the recommendation at its next meeting." There is nothing in the act that requires the court under these facts to follow the committee's recommendation, but if it grants the increase it would then have the implied authority to amend the county budget to implement its decision. Terrell v. Sparks, 135 S. W. 519 (1911); Moon v. Alred, 277 S. W. 787 (Tex. Civ. App., 1925, err. disp.); Attorney General Opinions V-857 (1949), C-505 (1965), M-436 (1969) and H-11 (1973).

Accordingly we hold that when a county or precinct official follows the procedures of Article 3912k and thereby becomes entitled to an increase in salary, such increase becomes effective in accordance with the provisions of that statute and does not need to await the next regular budget hearing.

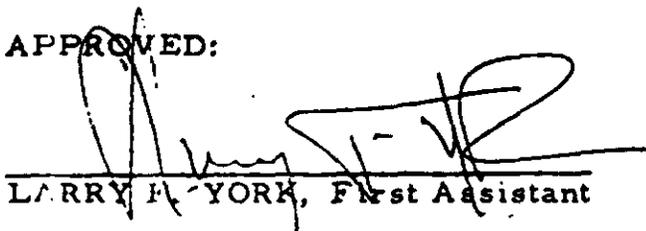
SUMMARY

Elected county and precinct officers who follow the procedures of Article 3912k and thereby become entitled to salary increases may receive them, effective in accordance with the provisions of that statute, and do not need to await the budget hearings for the next fiscal year.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY H. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee