



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 15, 1989

Honorable Wanda Kubecka
Criminal District Attorney
Jackson County
115 W. Main - Courthouse, Room 205
Edna, Texas 77957

LO-89-62

Dear Ms. Kubecka:

You ask whether an increase in salary for a justice of the peace recommended by the salary grievance committee to the commissioners court may become effective prior to approval at the annual budget hearing.

Section 152.016(c) (formerly article 3912k(d), V.T.C.S.) of the Local Government Code addresses the matter of the effective date of a salary increase recommended by the salary grievance committee, as follows:

If, after the hearing, six or more of the members vote to recommend an increase in the officer's salary or personal expenses, the committee shall submit its recommendation to the commissioners court in writing. If six to eight members vote to recommend the increase, the commissioners court shall consider the recommendation at its next meeting. If nine members vote to recommend the increase and sign the recommendation, the commissioners court shall include the increase in the budget before the budget is filed and the increase takes effect in the next budget year. (Emphasis added.)

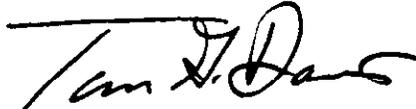
You cite the case of Jackson v. Leonard, 578 S.W.2d 882 (Tex. Civ. App. - Houston [14th Dist.] 1979, writ ref'd n.r.e.), for the proposition that the salary increase recommended by the salary grievance committee becomes effective

Honorable Wanda Kubecka
August 15, 1989
Page 2

for the balance of the budget year although the budget for the year has previously been approved. Jackson v. Leonard predated the 1983 amendment to former article 3912k(d) by House Bill 804. Acts 1983, 68th Leg., ch. 336, at 1741. At the time of the Jackson case, former article 3912k(d) provided that the action by nine members of the salary grievance committee becomes effective on the first day of the month following delivery of the written recommendation to the commissioners court. This provision was deleted by the 1983 amendment. As codified in the Local Government Code, former article 3912k(d) provides: "If nine members vote to recommend the increase and sign the recommendation, the commissioners court shall include the increase in the budget before the budget is filed and the increase takes effect in the next budget year." Local Gov't Code § 152.016(c). In other words, if the nine members of the salary grievance committee vote to recommend the increase, the court must include the increase in the budget to take effect in the next budget year.

You do not raise nor do we address the validity of one person occupying the offices of justice of the peace for two precincts.

Very truly yours,



Tom G. Davis
Assistant Attorney General
Opinion Committee

APPROVED BY: RICK GILPIN, Chairman
Opinion Committee

TGD/RG/bc

Ref.: RQ-1745
ID# 6753