



**THE ATTORNEY GENERAL
OF TEXAS**

November 13, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Tom O'Connell
Criminal District Attorney
Collin County Courthouse
McKinney, Texas 75069

LO-89-93

Dear Mr. O'Connell:

On behalf of the Collin County Tax Assessor-Collector, you ask:

Does the Commissioners Court have the authority to dictate or specify to an elected official of a constitutionally defined office the materials of that elected official's office, including the use of the official's name on those materials?

You note that a 1985 order of the Collin County Commissioners Court requires all elected and appointed public employees to use generic (in other words, not personalized) stationery, envelopes, stamps, and other office supplies and limits the number of personalized business cards that may be purchased each year. Stationery, forms, letterhead, and similar items are printed with the name of the county office or department only; the official's name does not appear.

In 1988 the order was expanded to prohibit altering, modifying or reprinting of generic office materials. The Collin County Tax Assessor-Collector argues that "as an elected official of a constitutionally defined office . . . [he has] the authority to determine the form and content of his official stationery and forms"

We understand that this expanded order is intended to prohibit the additional expenditure of funds for the modifying or reprinting of stationery outside of an individual officeholder's office. Use of generic materials further eliminates waste that might result when an officeholder's term of office ends. Because we do not interpret the court's order to include a prohibition on an officeholder's use of his official stamp, office equipment, or office personnel to modify generic stationery in the officeholder's own office, we limit our discussion accordingly. We believe that the Collin County Commissioners Court can order use of generic office materials by the tax assessor-

collector and other county officers to the extent that such use affects the county's budget.

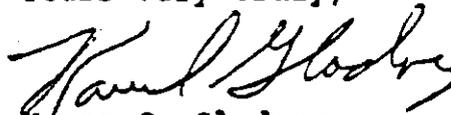
Article V, section 18, of the Texas Constitution empowers the county commissioners court to "exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed." The Local Government Code authorizes the commissioners court to make contracts and purchases on behalf of the county. See Local Gov't Code § 262.001 et. seq. As the governing and administrative body of the county, the commissioners court has the power to determine the county budget and make appropriations of funds. Rheurark v. Shaw, 628 F.2d 297, 301-02 (5th Cir.), cert. denied, 450 U.S. 931 (1980). The court has implied authority to exercise its discretion in order to accomplish these purposes. Anderson v. Wood, 152 S.W.2d 1084, 1085 (Tex. 1941). Therefore, the Collin County Commissioners Court, not the tax assessor-collector, has the authority to determine what supplies are necessary for the tax assessor-collector's office. See Attorney General Opinions JM-725 (1987) (county department may only buy office supplies with commissioners court's approval); H-544 (1975) (commissioners court alone is general business and contracting agent for the county); O-6918 (1945) (commissioners court determines what office expenses are reasonable and necessary); O-5685 (1943) (commissioners court not obligated to furnish stationery and blanks to county surveyor). Several 1989 amendments and additions to the Local Government Code further authorize county commissioners courts to use their discretion in managing county budgets. See Acts 1989, 71st Leg., ch. 1, §§ 11, 36, 37, 38; id., chs. 58, 117, 167, 253, 872. 1

1. See, e.g., Local Gov't Code §§ 111.003 (court decides when to prepare county budget), 111.010 (court may amend budget by transfer), 113.903 (providing for collection of county funds with the prior consent of the commissioners court), 155.042 (court may establish a cafeteria plan for county employees), 157.002 (court may provide medical insurance for county employees), 157.062 (court may establish daycare in county with 500,000 population), 157.903 (court may indemnify county officers), 159.003 (court may require financial disclosure in county with 125,000 population), 262.0115 (purchasing agent serves at the pleasure of commissioners court in county with more than 125,000 population).

The Texas Constitution provides for the election of the tax assessor-collector. Tex. Const. art. VIII, § 14; see also id. §§ 16, 16a (providing for tax assessor-collectors in counties having fewer than 10,000 residents). The duties and compensation of the tax assessor-collector are defined by statute, Tax Code §§ 6.21-6.29, and he has only those powers expressly conferred by statute. State v. Cage, 176 S.W. 928, 930 (Tex. Civ. App. - Fort Worth 1915, writ ref'd). No statute grants the tax assessor-collector the power to determine the content and form of his office supplies.

In summary, the Collin County Commissioners Court has the authority to order the use of generic printed materials and limit the number of business cards purchased for the county tax assessor-collector.

Yours very truly,



Karen C. Gladney
Assistant Attorney General
Opinion Committee

KCG/er

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