



125# 14101  
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## CAMERON COUNTY DISTRICT ATTORNEY

CAMERON COUNTY COURTHOUSE  
974 E. HARRISON STREET - BROWNSVILLE, TEXAS 78520

LUIS V. SAENZ  
Cameron County  
District Attorney

PQ-257

October 29, 1991

RECEIVED

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Opinion Committee

Opinions Committee  
Office of the Texas Attorney General  
P.O. Box 12548  
Capitol Station  
Austin, Texas 78711

RE: Request for Attorney General Opinion

TO THE COMMITTEE:

Pursuant to TEX. GOV'T. CODE ANN. §402.041 et Seq. (Vernon 1990), I respectfully request that the Texas Attorney General advise the undersigned in regard to the following question that has risen in my jurisdiction concerning the interpretation of House Bill 66.

### A. THE FACTS

On Friday, October 11, 1991, the Commissioners Court of Cameron County, Texas requested that this office request an Attorney General Opinion concerning the pay raise provision for statutory county court judges under House Bill 66.

### B. RELEVANT PROVISIONS OF HOUSE BILL 66

A question has been raised regarding the interpretation of House Bill 66, particularly in relation to the pay raise provision for statutory county court judges under Section 25.0005 of the Government Code (TEX. GOV'T. CODE ANN. (Vernon 1988)), which was amended by House Bill 66.

Section 74 of House Bill 66 states that:

"Except as otherwise provided by this Act, this Act takes effect October 1, 1991."

Amended Section 25.0005(a), is stated as follows:

"Sec. 25.0005. JUDGE'S SALARY. (a) A statutory county court judge, other than a statutory county court judge who engages in the private practice of law or a judge in whose court fees and costs under section 51.702 are not collected, shall be paid a total annual salary set by the commissioners court at an amount that is at least equal to the amount that is \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary includes contributions and supplements, paid by the state or county, other than contributions received as compensation under Section 74.051."

Section 25.0005(e) sets out the terms under which a county is not required to meet the salary requirements of 25.0005(a).

Section 25.0005 (e) is stated as follows:

(1) "not later than September 1 of the year in which the county initially begins collecting fees and costs under Section 51.702, the county increases the salary of each statutory county court judge in the county to an amount that is at least \$20,000 more than the salary the judge was entitled to on May 1 of that year;

(2) the county maintains the salary at the minimum required by Subdivision (1);

(3) the county collects the fees and costs as provided by Section 51.702;

(4) the court has at least the jurisdiction provided by Section 25.0003; and

(5) except as provided by Subsection (f) the county uses at least 50 percent of the amount the county receives each state fiscal year under Section 25.0016 for salaries for the statutory county court judges."

Section 25.0005 (f) states that:

"Subsection (e) (5) does not require a county to pay a salary that exceeds the minimum salary under Subsection (a)."

Amended Section 51.072 of The Texas Government Code is stated as follows:

#### ADDITIONAL FEES AND COSTS IN CERTAIN COUNTY COURTS

(a) "In addition to all other fees authorized or required by other law, the clerk of a statutory county court shall collect a \$20 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay \$10 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), or a conviction under the Uniform Act regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees and cost collected under this section to the comptroller at least as frequently as monthly. The comptroller shall deposit the fees in the judicial fund.

(e) Sections 51.320 and 51.321 apply to a fee or costs collected under this section.

(f) This section applies only to fees and costs for a 12-month period beginning on July 1 in a County in which the commissioners court:

(1) Adopts a resolution authorizing the fees and costs under this section for the 12-month period; and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the 12-month period during which the fees and costs are to be collected.

Section 152.013 TEX. LOC. GOV'T CODE ANN. (Vernon 1988))

**§152.013. Procedure for Setting Amounts for Elected Officers**

(a) Each year the commissioners court shall set the salary, expenses, and other allowances of elected county or precinct officers. The commissioners court shall set the items at a regular meeting of the court during the regular budget hearing and adoption proceedings.

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

(1) any salaries, expenses, or allowances that are proposed to be increased; and

(2) the amount of the proposed increases.

(c) Before filing the annual budget with the county clerk, the commissioners court shall give written notice to each elected county and precinct officer of the officer's salary and personal expenses to be included in the budget.

### C. THE ISSUES PRESENTED

1. When are the salaries of the statutory county court judges to be increased?
2. If the provision of House Bill 66 regarding the salaries of the statutory County Court judges became effective on October 1, 1991, would the advertisement requirement of Section 152.013 of the Local Government Code (TEX. LOC. GOV'T. CODE ANN (Vernon 1988)) have to be satisfied?
3. If the advertising requirement does not apply in this situation, and the effective date of Section 25.0005 of the Government Code is October 1, 1991, is the pay increase retroactive?

### D. OUR ANALYSIS/CONCLUSION

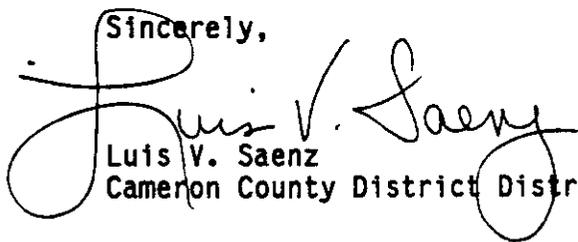
Since House Bill 66 became effective on October 1, 1991, the fees and costs under Section 51.072 are to be collected starting July 1, 1992. The twelve (12) month period of collecting fees under Section 51.072 (SEE TEX. GOV'T. CODE ANN. (Vernon 1991)) would begin on July 1, 1992 and end on June 30, 1993.

It is the opinion of this office that the provision of House Bill 66 regarding increasing the salaries of the statutory county court judges became effective October 1, 1991. Furthermore, it is the opinion of this office that there is no provision under House Bill 66 in which the increase in the salary of the statutory county court judges would not become effective until September 1, 1992. The cost and fees under Section 51.072 are to be collected starting July 1, 1992, and the state will only annually compensate the county from the judicial fund beginning October 1, 1992, but the House Bill states only that the county must increase the salaries of the statutory county court judges no later than September 1, 1992; therefore, it does not appear to prohibit an increase in these salaries before September 1, 1992.

### E. CERTIFICATION

I hereby certify because this office provides its advice and counsel to the County, that this question of law affects matters within the jurisdiction of my office and constitutes a matter in which the State is "interested," as well. I also certify that this matter is not currently in litigation.

Should you require additional information, please contact Assistant District Attorney Pandora Dysart. Thank you for your assistance.

Sincerely,  
  
Luis V. Saenz  
Cameron County District District Attorney

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