



# Texas State Board of Public Accountancy

333 Guadalupe, Tower III Suite 900, Austin, Texas 78701-3900

William Treacy, Executive Director

**RECEIVED**

**RQ-0881-GA**

April 19, 2010

APR 20 2010

**OPINION COMMITTEE**

FILE # ML-46435-10

I.D. # 46435

Nancy S. Fuller  
Chair, Opinion Committee  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

In Re: Request for an opinion on fee exemption for certain license holders

Dear Ms. Fuller:

This agency is seeking an opinion from you to assist us in the administration of the *Public Accountancy Act*, Chapter 901 of the Texas Occupations Code (hereinafter "Act"). We have a question regarding how to apply a section of the Act concerning the exemption of specifically identified licensees from a \$200 fee increase created by the Texas Legislature in 1991.

Section 901.406 of the Act creates a fee increase for all Texas licensees with the fee going to the state's general revenue and the foundation school fund. Subsequent to the enactment of the fee increase, the legislature created an exemption from the fee for employees of the federal government that were restricted by virtue of their employment from engaging in the practice of public accountancy. This exemption was created by the addition of Section 901.410 of the Act. In 2007, Section 901.410 of the Act was amended to extend the exemption to employees of the government of another state, or a municipal or county government. The applicable portion of Section 901.410 (1) follows with the added language in italics:

The fee imposed under Section 901.406 and the additional fee imposed under Section 901.407 do not apply to a license holder of the federal government, *the government of another state, or a municipal or county government* and who is restricted by virtue of that employment from engaging in the practice of public accountancy outside the scope of employment; or...

The question we would like for you to address is the application of the language "a municipal or county government" to the preceding language "government of another state". In applying the exemption, do you believe the legislature in adding the language

Administration/ Accounting (512) 305-7800	Automated Information (512) 305-7870	CPE (512) 305-7844	Enforcement (512) 305-7866	Licensing (512) 305-7853	Qualifications (512) 305-7850 (512) 305-7851	Peer Review (512) 305-7853	FAX (512) 305-7875 (512) 305-7854
-------------------------------------------------	--------------------------------------------	-----------------------	-------------------------------	-----------------------------	----------------------------------------------------	----------------------------------	-----------------------------------------

[www.tsbpa.state.tx.us](http://www.tsbpa.state.tx.us)

An equal opportunity, affirmative action employer

"the government of another state, or a municipal or county government" intended to restrict the application of the exemption of municipal or county employees to only those employees of Texas or does the exemption of municipal or county employees also include those municipal or county employees in another state? If the exemption applies to Texas employees of municipal and county governments, does the exemption also apply to municipal and county governments of all states?

In addition to the above we also have a second issue regarding the application of municipal governments in this section of the Act.

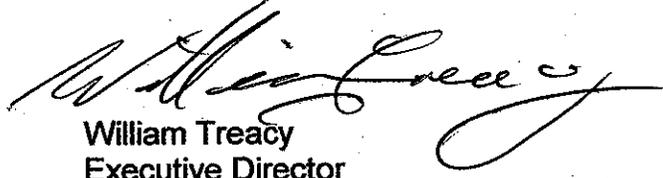
The enabling legislation of the Brazos River Authority states that it is "a river authority, a governmental agency, a *municipality* (emphasis added), and a body politic and corporate" (Section 8502.001(a) Texas Special District Local Laws). The Brazos River Authority is not a municipality in the traditional sense as other cities in the state.

Do you believe that the Texas Legislature intended to exempt employees from the Brazos River Authority, assuming the employees met all the other statutory requirements of the Act, from the fee increase exemption provided for in Section 901.410 of the Act?

I greatly appreciate your help in providing your opinion on these questions. Please do not hesitate to contact me regarding this opinion request.

Yours very truly,

TEXAS STATE BOARD OF  
PUBLIC ACCOUNTANCY



William Treacy  
Executive Director