



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 24, 2008

The Honorable James M. Kuboviak
Brazos County Attorney
Brazos County Courthouse
300 East 26th Street, Suite 325
Bryan, Texas 77803-5327

Opinion No. GA-0619

Re: Whether Government Code section 614.122
requires a county attorney to issue identification
cards to unpaid investigators of his office
(RQ-0641-GA)

Dear Mr. Kuboviak:

As Brazos County Attorney, you have appointed investigators to assist you in your duties, including unpaid part-time investigators.¹ See TEX. GOV'T CODE ANN. § 41.102 (Vernon Supp. 2007) (prosecuting attorney may employ investigators and other personnel required for operation of his office); see also *id.* § 41.101 (Vernon 2004) (a county attorney is a prosecuting attorney). You ask whether you are required to issue an identification card described by Texas Government Code section 614.122 to peace officers who serve as unpaid investigators. See Request Letter, *supra* note 1, at 1. Section 614.122 is found in Government Code chapter 614, subchapter H, which was adopted by House Bill 3613 of the Eightieth Legislature. See Act of May 27, 2007, 80th Leg., R.S., ch. 938, 2007 Tex. Gen. Laws 3237, 3238.²

Investigators appointed by a county attorney are peace officers. TEX. CODE CRIM. PROC. ANN. art. 2.12(5) (Vernon Supp. 2007); see also TEX. GOV'T CODE ANN. §§ 41.101 (“prosecuting attorney” includes a county attorney), 41.109 (Vernon Supp. 2007) (authority of investigator appointed by prosecuting attorney). You state that each investigator holds a peace officer license issued by the Texas Commission on Law Enforcement Officer Standards and Education and that you

¹See Brief attached to letter from Honorable James M. Kuboviak, Brazos County Attorney, to Honorable Greg Abbott, Attorney General of Texas, at 1 (Oct. 18, 2007) (on file with the Opinion Committee, also available at <http://www.oag.state.tx.us>) [hereinafter respectively Brief and Request Letter].

²The Eightieth Legislature adopted other provisions codified as Government Code, chapter 614, subchapter H. See Act of May 28, 2007, 80th Leg., R.S., ch. 1159, § 13, 2007 Tex. Gen. Laws 3962, 3968–69 (standards for certain state law enforcement officers); Act of May 24, 2007, 80th Leg., R.S., ch. 1187, § 3, 2007 Tex. Gen. Laws 4051, 4051–52 (identification cards for certain retired peace officers); Act of May 23, 2007, 80th Leg., R.S., ch. 1215, § 1, 2007 Tex. Gen. Laws 4102, 4102–03 (fire department listing); Act of May 27, 2007, 80th Leg., R.S., ch. 1248, § 2, 2007 Tex. Gen. Laws 4194, 4194–95 (insurance coverage required for volunteer police force members).

have commissioned each of them. *See* Brief, *supra* note 1, at 1; *see also* TEX. OCC. CODE ANN. ch. 1701 (law establishing and governing Texas Commission on Law Enforcement Officer Standards and Education) (Vernon 2004 & Supp. 2007). Included among your investigators are part-time unpaid peace officers. *See* Brief, *supra* note 1, at 1.

We consider whether you must issue an identification card to the unpaid part-time investigators. Section 614.122(a) provides that “[t]he law enforcement agency or other governmental entity that appoints or employs a peace officer shall issue an identification card to its full-time or part-time peace officers.” TEX. GOV’T CODE ANN. § 614.122(a) (Vernon Supp. 2007). Definitions are found in section 614.121, which provides that

“Full-time peace officer” means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law, who:

(A) works as a peace officer on average at least 32 hours per week, exclusive of paid vacation; and

(B) *is compensated by this state or a political subdivision of this state* at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the state or political subdivision.

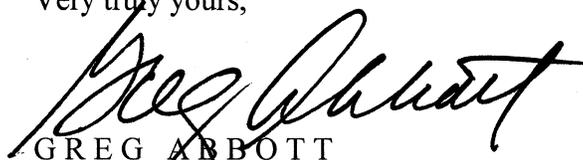
Id. § 614.121(1) (emphasis added). A part-time peace officer, like a full-time peace officer, is a person who “*is compensated by this state or a political subdivision of this state* at least at the federal minimum wage” and is also entitled to all employee benefits that the state or political subdivision offers to a police officer. *Id.* § 614.121(3)(B) (emphasis added).

In construing statutes, a court ascertains and gives effect to the Legislature’s intent as expressed by the language of the statute. *See State v. Shumake*, 199 S.W.3d 279, 284 (Tex. 2006). If words and phrases have acquired a particular meaning by legislative definition, they will be construed accordingly. *See* TEX. GOV’T CODE ANN. § 311.011(b) (Vernon 2005). For purposes of section 614.122, the Legislature has defined “full-time” and “part-time” peace officers as compensated persons. Accordingly, section 614.122 does not require the Brazos County Attorney to issue an identification card to its investigators who are unpaid peace officers.

S U M M A R Y

Government Code section 614.122 requires a law enforcement agency or other governmental entity that appoints or employs a peace officer to issue an identification card to its full-time and part-time peace officers. Investigators appointed by the county attorney are peace officers. Full-time and part-time peace officers are defined as compensated peace officers for purposes of this provision. Section 614.122 does not require the Brazos County Attorney to issue identification cards to uncompensated investigators that he has appointed.

Very truly yours,



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