



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 25, 2013

The Honorable Tracy O. King  
Chair, Committee on Agriculture and  
Livestock  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

Opinion No. GA-1029

Re: Whether Local Government Code section  
143.014 authorizes a municipality to appoint  
additional assistant municipal police chiefs  
(RQ-1130-GA)

Dear Representative King:

You ask us to determine the proper number of police officers that a police department head may appoint under Texas Local Government Code subsection 143.014(c).<sup>1</sup> That statute provides in relevant part: “In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification on January 1, 1983.” TEX. LOC. GOV’T CODE ANN. § 143.014(c) (West 2008). Without referencing any specific municipality’s police department, you explain that on January 1, 1983, there were four “captains” in the classification immediately below department head. Request Letter at 1. You tell us that today, the classification immediately below department head has the title “assistant chief.” *Id.* Because the title “assistant chief” did not exist in the department in 1983, you inquire specifically as to the maximum number of assistant chiefs a city can appoint today pursuant to section 143.014. *Id.*

In municipalities that have elected to adopt chapter 143, municipal police department positions generally must be filled pursuant to a competitive examination process. TEX. LOC. GOV’T CODE ANN. §§ 143.002(a)(1)(c), .004, .021(c) (West 2008). Section 143.014 provides an exception to that requirement, allowing the governing body of a municipality with a population of less than 1.5 million to authorize the head of a municipal police department in which “four classifications exist below the classification of department head” to appoint individuals who meet certain qualifications. *Id.* § 143.014(a), (b), (d). A department head’s appointment authority under this section is limited to “the classification immediately below that of department

---

<sup>1</sup>Letter from Honorable Tracy O. King, Chair, Comm. on Agriculture and Livestock, to Honorable Greg Abbott, Tex. Att’y Gen. at 1 (May 24, 2013), <http://www.texasattorneygeneral.gov/opin> (“Request Letter”).

head” in a number equal to the number of individuals, plus one, “serving in *that* classification on January 1, 1983.” *Id.* § 143.014(b), (c) (emphasis added).

When construing a statute, courts strive to determine and give effect to the Legislature’s intent, as evidenced by “the plain meaning of the words chosen.” *Tex. Mut. Ins. Co. v. Ruttiger*, 381 S.W.3d 430, 452 (Tex. 2012). Words and phrases are meant to be read in context. TEX. GOV’T CODE ANN. § 311.011(a) (West 2013). The phrase “that classification” in subsection (c) refers to “the classification immediately below that of department head.” TEX. LOC. GOV’T CODE ANN. § 143.014(c) (West 2008). The Legislature chose to describe “that classification” solely by its place, relative to that of department head, within the hierarchy of a municipality’s police department. Nothing in the statute indicates that the Legislature intended for the title of the individuals within that classification to be determinative. Indeed, Chapter 143 defines “department head” as “the chief or head of a fire or police department or that person’s equivalent, regardless of the name or title used.” *Id.* § 143.003(2). Therefore, the number of persons a department head may appoint under subsection 143.014(c) may not exceed the number of positions, plus one, in the classification “immediately below that of department head” on January 1, 1983, irrespective of the particular title used.<sup>2</sup>

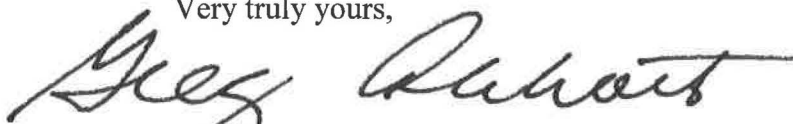
---

<sup>2</sup>Subsection 143.014(c) “does not apply to a municipality that has adopted The Fire and Police Employee Relations Act unless the municipality adopts the appointment procedure prescribed by [subsection (c)] through the collective bargaining process.” TEX. LOC. GOV’T CODE ANN. § 143.014(c) (West 2008).

S U M M A R Y

Under Local Government Code subsection 143.014(c), the number of persons a police department head may appoint may not exceed the number of positions, plus one, in the classification "immediately below that of department head" on January 1, 1983, irrespective of the particular title used.

Very truly yours,

A handwritten signature in cursive script that reads "Greg Abbott". The signature is written in dark ink and is positioned above the printed name and title.

GREG ABBOTT  
Attorney General of Texas

DANIEL T. HODGE  
First Assistant Attorney General

JAMES D. BLACKLOCK  
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER  
Chair, Opinion Committee

Stephen L. Tatum, Jr.  
Assistant Attorney General, Opinion Committee