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Opinion Committee

Office of the Attorney General  
Attn: John Cornyn  
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FILE # ML-41147-99  
I.D. # 41147

I am requesting an opinion and clarification of your opinion no. JC-0131.

What recourse does a county have when an elected official closes their office to allow their employees to have time off to Christmas shop or to be able to travel to visit relatives without it being charged to either vacation, comp time (if they have it or elect to do so) or to be docked in the event that they have neither vacation or comp time accrued.

When one official chooses to let employees off for personal reasons as a group then the other officials come under pressure to do the same and the taxpayer comes up short.

If it is your opinion that there is nothing that can be done about it, short of having a new law enacted, to cover this situation that I request your opinion on the following strategy.

The Commissioners Court adopts a policy that says only full time employees (as defined) who work 40 hours on a regular basis are entitled to benefits such as health insurance, vacation, sick leave, and holidays. In order to receive benefits you must complete a time sheet on a prescribed basis (federal law requires you to keep records of non exempt employees hours worked) and that only full time employees working forty hours will be eligible for benefits. Employees absent from work must charge those absences to either vacation, sick, comp time as appropriate and to the extend accrued or be docked. Those employees who fail to adhere to this policy will not be eligible for benefits.

Without a control there are a few officials who might choose to close their office for a whole week thus in effect giving employees additional vacation/holiday time off which is reserved for the Commissioner's Court authority.

Joy Dymke  
12-9-99