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THE COUNTY OF LIBERTY

Office of the County Attorney
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RQ-0224-JC

April 18, 2000

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OPINION COMMITTEE

Ms. Elizabeth Robinson
Chairperson of Opinion Committee
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-41379-00
I.D. # 41379

Re: Request for Attorney General's Opinion - Deputy Treasurer's Authority

Dear Ms. Robinson:

I am requesting an Attorney General's Opinion in regard to a County Treasurer's authority to delegate her duties to a designated deputy Treasurer.

Section 83.005(a) (Local Government Code) states that in a county in which the County Treasurer does not have a deputy, the County Treasurer may appoint a person, subject to the approval of the Commissioners' Court, to act in the Treasurer's place. The appointed person may act in the Treasurer's place only if the Treasurer is absent, unavoidable detained, incapacitated, or unable to act. Ostensibly Section 83.005(a) contemplates the appointment of a deputy Treasurer; however, Section 83.005 fails to specify the authority of a deputy Treasurer.

In 1939, the Attorney General's office issued Opinion No. O-283. In that opinion, the Attorney General stated that unless a vacancy is properly declared in the office of the County Treasurer, only such person duly occupying that office is authorized to perform the duties connected with and pertaining to same, and in case the County Treasurer is ill or absent temporarily, no one else can sign and register warrants. However, this opinion did not address the delegated authority of a deputy Treasurer and was overruled by Attorney General's Opinion O-4454.

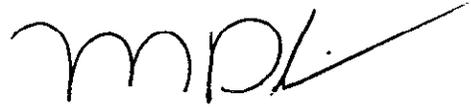
Opinion O-4454 stated that a County Treasurer would have the authority to appoint a deputy if the provisions of Article 4902, V.A.C.S. were complied with and that such deputy would have authority to sign warrants. However, that opinion failed to address whether or not the deputy's power was contingent upon the Treasurer's incapacity or illness.

The Liberty County Treasurer has appointed a deputy Treasurer. The Treasurer would like her deputy to possess all authority afforded a County Treasurer at all times. Does her deputy have

the power to perform all official acts of the office of County Treasurer, including but not limited to, the authority to endorse a warrant, check, voucher, or order drawn by a proper authority? Additionally, if a deputy Treasurer has the same authority as the County Treasurer, is that authority contingent upon the Treasurer's absence, unavoidable detention, incapacity, or inability to act? Finally, if a deputy Treasurer possesses all authority afforded a County Treasurer at all times, may the deputy use the County Treasurer's fascimile signature stamp to endorse a warrant, check, voucher, or order drawn by a proper authority?

If I can provide further information to answer these questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'MPDL', with a long horizontal stroke extending to the right.

Michael Pichinson
1st Asst. County Attorney

MP/dh

cc:Liberty County Treasurer