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November 16, 2000

Honorable John Cornyn  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

Via Certified Mail P 978 440 381

Re: Request for Opinion

RECEIVED  
NOV 20 2000  
OPINION COMMITTEE

RQ-0314-JC  
FILE # ML-41761-00  
I.D. # 41761

Dear General Cornyn:

This letter is a request for your opinion concerning the interpretation of § 155.001 of the Local Government Code. Specifically, may a commissioner's court establish policies upon which an employees association be authorized to make deductions from a county employee's wages or salary? Next, what type of organization qualifies as a bona fide employees association eligible for payroll deductions?

Analysis

Counties have only those powers expressly granted to them or necessarily implied from express grants. *Canales v. Laughlin*, 214 S.W.2d 452 (Tex. 1948); Tex. Atty. Gen. Op. LO-90-80. In § 155.001 of the Local Government Code there is an explicit grant of authority to allow payroll deductions. However, from the use of the term 'may' by the legislature in the statute, one may also infer that from the express authority to allow deductions there is also implied authority to set policies upon which those deductions may be made.

For example, may a commissioner's court set a policy that a bona fide employees association be subject to having a minimum number of members before it would be eligible for a county payroll deduction or may a commissioner's court necessitate that the organization be in existence for a certain amount of time before it became eligible. We would assert that the permissive language of § 155 would allow a commissioner's court the authority to set such policies.

Next, what type of organization qualifies as a bona fide employees association eligible for payroll deductions? Bone fide is defined by *Blacks* as 'in or with good faith; honestly, openly, and sincerely; without deceit or fraud'. *Blacks Law Dictionary*, 6<sup>th</sup> Edition 1991. The National Labor Relations Board has defined an employee association as meaning 'any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work'. 29 U.S.C.A. § 152 (5); *NLRB v. Thomas Romo Wooldridge Inc.*, 305 F.2d 807, (5<sup>th</sup> Cir. 1962)(determining that an employee association meets the NLRB definition of a 'labor organization').

Therefore, we assert that for an organization to be eligible for a payroll deduction as a bone fide employees association under § 155 of the Local Government Code it would be have to be one that in good faith, openly and sincerely, promotes the interests of employees as determined by the commissioner's court.

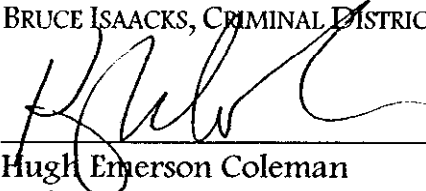
#### Conclusion

We contend that a commissioner's court may set policies to determine when a bona fide employee association may receive employee payroll deductions. Next, we aver that for an organization to qualify as bona fide employees association that it by its operation in good faith, openly and sincerely, promote the interests of employees as determined by the commissioner's court.

Thank you for your assistance in this matter. I look forward to your prompt response.

Sincerely,

BRUCE ISAACKS, CRIMINAL DISTRICT ATTORNEY



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