



CHARLES D. PENICK
CRIMINAL DISTRICT ATTORNEY
PHONE (512) 581-7125

804 Pecan Street
Bastrop, Texas 78602
FAX (512) 581-7133

**Office of the Criminal District Attorney
Bastrop County, Texas**

July 31, 2001

RECEIVED

Office of the Attorney General
Opinion Division
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-42085-01

AUG 01 2001

I.D. # 42085

OPINION COMMITTEE

RQ-0410-JC

REQUEST FOR ATTORNEY GENERAL OPINION

Question: Whether or not an attorney can contract with a county to collect delinquent taxes and donate personnel, equipment or dollars back to the county to enhance the counties collection of delinquent taxes.

In a prior opinion rendered by Jim Maddox's office (JM-857) dated 2/16/88, it was the opinion of Susan Garrison that pursuant to Section 33.07 of the Tax Code, a taxing unit that has contracted with an attorney to collect delinquent taxes under Section 6.30 of the Tax Code is authorized to impose a penalty not to exceed 15% against delinquent tax payers to cover the attorneys' compensation. The taxing unit may not apply any part of the penalties collected under 33.07 to any additional costs of collection which it incurs but must use all of the assessed penalties solely to compensate the attorney with whom it contracted.

It would appear, in my reading of the opinion, that the Commissioners Court wanted to compensate the attorney for a part of the delinquent tax collection fee and keep the rest for the general use of the county. This opinion was rendered in 1988 and subsequent to that the legislature passed Art. 81.022 of the local Government Code allowing the Commissioners Court to accept a gift, grant, donation, bequest or devise of money or other property on behalf of the county for the purpose of performing a function conferred by law on the county or a county officer.

It is the opinion of this writer that a county may contract with an attorney for the collection of delinquent taxes for a percentage of the delinquent taxes collected and receive a gift, grant, donation, bequest or devise of money from the attorney for the benefit of the collection of delinquent taxes.

Your help in resolving this matter will be greatly appreciated.

Yours truly,

Charles D. Penick
Criminal District Attorney

CDP:ec