

REPRESENTATIVE KIM BRILLER



BUSINESS & INDUSTRY, CHAIRMAN  
STATE AFFAIRS  
CALENDARS  
THE ENERGY COUNCIL

JOINT COMMITTEE ON OVERSIGHT OF  
ELECTRIC UTILITY RESTRUCTURING  
RESEARCH & OVERSIGHT COUNCIL ON  
WORKERS' COMPENSATION, VICE-CHAIR

TEXAS HOUSE OF REPRESENTATIVES

RQ-0515-jc

8 February, 2002

RECEIVED

Ms. Susan Gusky  
Chair, Opinions Committee  
Office of the Attorney General  
209 West 14th Street  
Austin, TX 78701

FILE # ML-42459-02  
I.D. # 42459

FEB 20 2002  
OPINION COMMITTEE

RE: REQUEST FOR ATTORNEY GENERAL OPINION

Dear Ms. Gusky:

As Chairman of the House Business & Industry Committee, I respectfully request an Attorney General's opinion regarding the appointment of a "city administrator" by ordinance only and assigning duties to that officer that are reserved for the mayor or duly appointed city manager. The information was collected and given to me by the Honorable Gary Hulsey, Mayor of Haslet, who is seeking clarification on three distinct and separate issues concerning the Local Government Code.

Chapter 102, Sections 102.001 - 102.005 of the Local Government Code (used hereafter as "Code") define who shall serve as the budget officer of a municipality in a city manager or aldermanic form of government and the process by which an annual budget is prepared and filed by the budget officer.

These sections state that the mayor shall serve as the budget officer of the municipality unless the municipality has adopted, by election, a city manager form of government, in which case the city manager serves as the budget officer.

Chapter 25, Sections 25.021 - 25.022 of the Code state that in order for a municipality to establish and/or operate under the city manager form of government an election must first be held. Additionally, the residents of the municipality may file a petition with the clerk of the municipality requesting the mayor to call a special election to determine whether the city manager form of government shall be adopted.

Chapter 22, Sections 22.071 - 22.072 of the Code provide for the establishment of specific municipal offices and other municipal offices, as required, and the election or appointment of such office holders. The sections also provide for additional, non-specific duties to be conferred to these elected or appointed office holders.



REPRESENTATIVE KIM BRIMER

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The request can be separated into three (3) related, but distinct, questions:

**QUESTION ONE:**

In regard to Chapter 102 of the Code, may the governing body of a general-law municipality assign the duties of the budget officer to another officer of the city when explicit assignment has been prescribed by the Code to the mayor in an aldermanic form of government or the city manager in a city manager form of government?

**QUESTION TWO:**

In regard to Section 25 of the Code:

- a. Is an election required to adopt a city manager form of government?
- b. Is an election required to operate an aldermanic form of government as a city manager form of government?
- c. May a governing body call for an election on this issue on its own accord under Section 25.021?
- d. May an election on this issue **only** be held upon the submission of a petition by qualified voters in accordance with section 25.022?

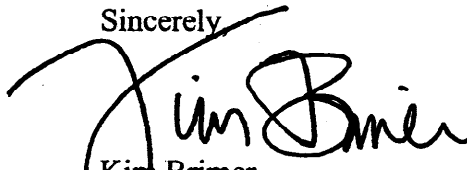
**QUESTION THREE:**

In regard to Section 22 of the Code:

- a. Does the Attorney General distinguish between "City Administrator" and "City Manager"?
- b. May a governing body appoint by ordinance only a City Administrator or City Manager under Section 22.071, Subsections (a), (b), or (c)?
- c. May a governing body prescribe powers and duties to a municipal officer other than a mayor or duly appointed city manager the powers and duties prescribed to a mayor or duly appointed city manager under Section 22.072, Subsections (a) or (b)?

Thank you for your consideration to this matter.

Sincerely



Kim Brimer  
State Representative

cc: State Representative Vicki Truitt  
The Honorable Gary Hulse, Mayor of Hastlet

