



P.O. Box 1335

Phone 254-897-2277
Fax 254-897-2600

RQ - 0267 - GA

August 25, 2004

RECEIVED
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OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of the State of Texas
P.O. Box 12548
Austin, TX 78711-2548

FILE # MC-43906-04
I.D. # 043906

Re: Authority of an Elected County Official to close his office on a date declared an official Day of Mourning by the Texas Governor, and related questions

Dear General Abbott:

Please accept this letter as a formal request for an opinion from your office concerning the authority of an elected County Official to close his office on a date declared to be an official Day of Mourning by the Governor of the State of Texas, and related questions. The facts surrounding the situation at hand are as follows:

After the passing of former President, Ronald Reagan, Texas Governor Rick Perry declared, in Executive Order RP34, that Friday, June 11, 2004, would be an official Day of Mourning, and called for all State Offices to be closed to allow employees to attend ceremonies in honor of the former President. Some Counties in the State ordered their offices closed for that same reason. The Commissioners Court of Somervell County, however, did not choose to close the County Offices of Somervell County in observance of this day. The Justice of the Peace, Precinct Two, of Somervell County chose to close his office for the day and so informed his Clerk. When the next pay period for employees arrived, the County Auditor of Somervell County advised the Justice of the Peace that he would not charge the pay to the Clerk as a regular work day, but instead was going to charge the Clerk with a "vacation day" for the day on which his office was closed (June 11, 2004). When presented with a copy of Opinion No. JC-0131, as authority for the closing of the Justice of the Peace's Office and also as the authority for the Clerk to be paid for that day as a regular work day, the County Auditor replied that such Opinion did not apply to the facts of this case. The Auditor continued to refuse to charge the pay to the Clerk for the date of June 11, 2004 as a regular work day, but instead has charged the Clerk with a "vacation day".

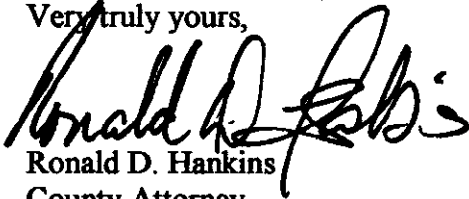
After having read Opinion No. JC-0131, it appears unquestioned that an Elected Official has the authority to set the hours of his own office, independent of the decisions of the Commissioners Court. The only real question in this matter seems to be whether Opinion No. JC-0131 applies not only to closures of a public office because of "bad weather, repairs and the like", but also to closures for other situations such as the one in this request (an official Day of Mourning).

SUMMARY

My questions are therefore: (1) "Do the opinions set forth in Opinion No. JC-0131 apply to the facts of this request (i.e., the closing of an Elected Official's Office in observance of an official Day of Mourning?" and (2) "Does the County Auditor of Somervell County have the authority to determine how the Clerk's time is to be charged for the date on which the Justice of the Peace (or any other Elected Official) has closed his office?"

Should you require any further information concerning this matter, please feel free to contact me.

Very truly yours,



Ronald D. Hankins
County Attorney
Somervell County