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DEC 07 2011  
**OPINION COMMITTEE**

**RQ-1025-GA**

December 5, 2011

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DEC 07 2011  
OPEN RECORDS DIVISION

The Honorable Gregg Abbott  
Attorney General of Texas  
ATTN: Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-46898-11  
I.D. # 46898

Re: Request for Opinion Concerning the Procedures for Counties to Adopt Tax Rates

Dear General Abbott:

Per protocol, I have requested an opinion on this matter from the Williamson County District Attorney. Attached for your review is his decline and thus my request.

This request concerns the determination of a county's rollback tax rate and the tax rates that it may adopt before it exceeds its rollback tax rate.

Counties are authorized under Article VIII, Section 9, Texas Constitution to adopt tax rates for general fund purposes and special road and bridge fund, and under Article VIII, Section 1-a, a tax rate for farm to market and flood control. Section 26.04, Texas Property Tax Code, requires that a county calculate an effective tax rate and rollback tax rate for each of these taxes, if imposed by a county. Section 26.04 (d) states the "effective tax rate for a county is the sum of the effective tax rates calculated for each type of tax the county levies and *the rollback tax rate for a county is the sum of the rollback tax rates calculated for each type of tax the county levies* (emphasis added)."

The county questions whether it may calculate an effective tax rate and rollback tax rate for each tax that it levies and after publishing these rates as required by section 26.04, Texas Property Tax Code, adopt a tax rate for a particular tax that is above the calculated rollback tax rate for that tax and not trigger the rights of taxpayers to petition the county to call a rollback election so long as the sum of all of the county's adopted tax rates do not exceed the combined rollback tax rate. The purpose of shifting cents from one rate to another and not exceed its rollback rate is to allow the county the flexibility to prioritize its tax rates. In some years additional funding may be necessary in the road and bridge budget in other years the county may need additional funds in its general fund. To meet these changing circumstances, moving cents between the two funds allows the

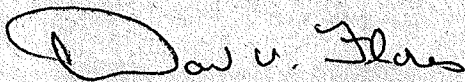
county the flexibility to meet its budgetary demands. The county believes that an interpretation of section 26.04(d) allowing the county to move cents between the various funds without the possibility of a rollback election so long as the adopted total tax rate does not exceed the combined rollback tax rates for the county would assist the county in providing necessary public services without a property tax increase.

For example, if a county imposes taxes for general fund purposes and farm to market and flood control, and has calculated and published a rollback tax rate of \$.27 for general fund purposes, and a rollback tax rate of \$.03 for farm to market and flood control, for a total rollback tax rate of \$.30, may it thereafter adopt a tax rate of \$.28 for general fund purposes, and \$.02 for farm to market and flood control, for a total tax rate of \$.30, and not trigger the right of taxpayers to petition the county to call an election to rollback its tax rate. In this instance, the county's total tax rate of \$.30 has not exceeded its combined rollback tax rate of \$.30, but it has adopted a tax for general fund purposes that it exceeds its rollback tax rate for that tax that was individually calculated and published as required section 26.04, Texas Property Tax Code.

Your office concluded in GA-0775, that although 26.08(a), Texas Property Tax Code, provides that "if the governing body of a school district adopts a tax rate that exceeds the district's rollback tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate," a school district could not move cents between its calculated maintenance and operations rate and its debts service rate and avoid a rollback election even though the total tax rate did not exceed the rollback tax rate for the school district. In this instance you found that the requirement of calculating two separate tax rates necessarily results in a limit on each separately calculated component.

Recognizing that in GA-0775, the inquiry was concerning the maintenance and operations tax rate and the debt service rate which are components within a tax rate, is there nevertheless a similar statutory restriction that imposes a limitation on the separate tax rates for a county if it adopts a tax rate that exceeds the calculated rollback tax rate for a tax that it is authorized to impose? The language of section 26.04 seems to suggest that so long as the county does not exceed the total rollback rate that no rollback election options are engaged.

Respectfully submitted,



David U. Flores  
Williamson County Auditor