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

RQ - 0328 - KP
FILE # ML-48676-20
I.D. # 48676

RE: Attorney General Opinion Request
Jackson County County-Wide Drainage District

Pursuant to 402.042 and 402.043 of the Texas Government Code, I request a formal written opinion on the following questions:

Questions:

Does Jackson County County-Wide Drainage District (District) have the independent authority to set the District's tax rate, levy and collect taxes without the approval of Jackson County Commissioners Court (County)?

Does the District have the independent authority to determine the viability and priority of projects, including amounts set aside for capital expenditures that may exceed a budget year, issuing bonds or other forms of indebtedness and conducting all business operations necessary to accomplish flood control within Jackson County without the Jackson County Commissioners Court approval and, if the County disagrees with the District's allocation of funds, does the County have the authority to re-appropriate the District's funds to purposes other than flood control, such as to supplement the County's general operating fund?

Background:

The County, pursuant to Article 8, Section 1-a of the Texas Constitution, and Article 704b (now Article 6702-1, Section 4.103) Vernon's Texas Civil Statutes, held an election on November 11, 1967, where a majority of the qualified voters of Jackson County approved for the County to levy and collect a 30 cent tax for flood control purposes as authorized by law. [A copy of Order

Calling Special County Election (Exhibit A) and Certificate of Posting (Exhibit B) are attached hereto and incorporated herein]. Subsequently the Jackson County County-Wide Drainage District, a governmental agency and subdivision of the State of Texas, was created by Acts of the 61st Legislature, Regular Session, 1969 (Article 8280-412, Vernon's Texas Civil Statutes). Section 14 and Section 15, Chapter 200, Acts of the 61st Legislature, Regular Session, 1969 (Article 8280-412, Vernon's Texas Civil Statutes) were amended by Acts of the 63rd Legislature, Regular Session, 1973.

The Jackson County County-Wide Drainage District was established to provide for the control, storing, preservation and distribution of storm and floodwaters and for the reclamation and drainage of its overflowed lands and other lands needing drainage. The District has contracted with the County to collect their taxes since the District was established. Per the contract with the County, the District submits a budget to the County to enable the County to assess and collect a tax (up to \$.30 statutory limitation) sufficient to meet the revenue requirements of the District. [The current contract between the County and District (Exhibit C) is attached hereto and incorporated herein.]

Although not set forth in the contract, the County requires the District to justify their budget including, but not limited to, amounts set aside for capital expenditures that are to be financed by general revenues of the District. Due to the magnitude and complexity of some of the District's projects, funds are set aside over several budget years to accrue the necessary resources to complete the projects. The District's perception is that the County has indicated an intent to divert funds set aside for these capital expenditures from the District for the use and benefit of the County.

After reviewing the pertinent statutes, it appears that although the County assesses and collects taxes on behalf of the District, the County does not have the authority to manage or have privity to any funds collected except the amount set forth in the contract between the County and District. Nor does it appear that the County has the authority to control the District's use of tax revenue or overrule the District's allocation of funds absence a showing of malfeasance or mismanagement. The District has requested this office seek clarification on this matter from the Attorney General's Office.

Please contact me if I can be of further assistance. Thank you for your guidance in this matter.

Sincerely,



Pam Guenther

PG/efm

Enclosures

c: Mr. Charles Givens
Jackson County County-Wide Drainage District

Ms. Jill Sklar
Jackson County Judge