



## Montgomery County, Texas

### Office of the County Auditor

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Rakesh Pandey  
County Auditor

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1<sup>st</sup> Assistant County Auditor

**RECEIVED**

By Opinion Committee at 5:01 pm, May 04, 2020

May 4, 2020

**RQ-0353-KP**

File# **ML-48791-20**

I.D.# **48791**

The Honorable Ken Paxton,  
Office of the Attorney General,  
Attention Opinion Committee,  
P.O. Box 12548  
Austin, TX 78711-2548

sent via e-mail to: [opinion.committee@oag.texas.gov](mailto:opinion.committee@oag.texas.gov)

**Re: Request for an opinion clarifying the application of amended Section 25.0005(a) of the Texas Government Code, as codified by House Bill 2384, 86<sup>th</sup> Legislative Session.**

Dear General Paxton:

H.B. 2384, 86<sup>th</sup> Legislative Session, as enacted, amended the salary structure for the Texas Judiciary effective September 1, 2019. Our office requests clarification in relation to the calculation of minimum salary(ies), pursuant to Tex. Gov't Code Sec 25.0005(a), specifically pertaining to County Court at Law (CCAL) Judges with 12 or more years of accrued service.

Government Code 25.0005(a) states:

*"A statutory county court judge, other than a statutory county court judge who engages in the private practice of law, shall be paid a total annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the sum of the annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the statutory county court judge and any state or county contributions and supplements paid to a district judge in the county, other than contributions received as compensation under Section 74.051. A statutory county court judge's total annual salary includes any state or county contributions and supplements paid to the judge. For purposes of this subsection, the years of service of a statutory county court judge include any years of service as an appellate court, district court, multicounty statutory county court, or statutory probate court justice or judge."*

While the maximum salary calculation for a CCAL judge, as defined under Section 25.0005(a-2) clearly includes reference to 'longevity pay' as part of the calculation, in accordance with Section 659.0445(d), received by a District Judge, the minimum salary calculation is missing such reference to 'longevity pay'. Simultaneously, however, Section 25.0005(a) expressly references, for the purposes of a minimum salary calculation, a formula whereby a CCAL judge's salary would be \$1000 less than an annual salary "*paid to a district judge with comparable years of service*", a salary which, stands to reason, would statutorily encompass longevity pay for a district judge with 12+ years of service. Moreover, it is interesting to note that Section 659.012 of the Texas Government Code is silent as to base salary of district judges with 12 or more years of accrued service and yet, it is conceivable that having a CCAL Judge with 12 or more years of service may present the need to calculate his/her minimum salary. In its

role as County Auditor, our office is obligated to correctly calculate all applicable County employees' salaries, including minimums and maximums where applicable, in accordance with governing law, and in this instance there appears to be lack of clarity as regards the minimum salary of CCAL judges with 12 or more years of service.

At this time we have 3 County Court at Law Judges, with 12 or more years of service, potentially affected by this legislative amendment. Our office is therefore requesting clarification of the formula for the aforementioned CCAL judges' minimum salary, where said judges have 12 or more years of accrued service (with the assumption that all commensurate District Judges are receiving the maximum county supplement of \$18,000), and whether the commensurate longevity pay amounts paid to district judges is to be included in the minimum salary of CCAL judges.

Thank you for your consideration of this request. Please feel free to contact my office should you need any additional information or details regarding this request.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Rakesh Pandey', written over a blue horizontal line.

Rakesh Pandey  
County Auditor  
Montgomery County, TX