



TYLER COUNTY AUDITOR

Jackie Skinner

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By Opinion Committee at 1:14 pm, Feb 11, 2022

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February 11, 2022

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

RQ-0446-KP

FILE# ML-49081-22

I.D.# 49081

Re: American Rescue Act Funds for Local Governments (ARPA)

Dear Committee:

I am writing to request an Attorney General Opinion regarding state law Section 152.013 of the local government code applying to Premium Pay in the ARPA interim ruling by the United States Treasury for elected officials.


The ARPA money the county received came directly from the United States Treasury and did not pass through the state. The supremacy clause of the Constitution of the United States (Article VI, Clause 2) established that the Constitution, federal laws made pursuant to it, and treaties made under its authority, continue the "supreme Law of the Land" and thus take priority over any conflicting state laws.

Since it did not pass through the state, our county did not feel section 152.03 of the local government code applied as it was not money within the adopted budget. This funding is the first of its kind and with it came a lot of uncertainty. We felt these funds complied with Section 111.016 of the local government code regarding aid money that is available for disbursement but not included in the budget.

I requested from our Criminal District Attorney his opinion which is attached. He concluded that this money was not part of the local budget process and did not apply. I have searched to find a ruling regarding section 152.013 applying to federal aid that has not passed through the state and have not been able to find any case law. The final ruling that becomes effective April 1, 2022, does clarify the question about the elected officials and premium pay but the interim ruling did not.

My request is for you to render an opinion whether by paying the elected and appointed officials the same stipend all full-time employees received from ARPA funds under the interim ruling violated Section 152.013 of the local government code. If it is found to be in violation of the local government code what is the remedy.

Respectfully Submitted,


Jackie Skinner
County Auditor