



TEXAS HOUSE of REPRESENTATIVES

Gary Gates

State Representative, District 28

April 25, 2025

The Honorable Ken Paxton
Texas Attorney General
ATTN: Opinion Committee
PO Box 12458
Austin, Texas 78711

Re: Request for legal opinion regarding the authority of a Commissioners Court to select a firm to assist with the redrawing of precinct lines pursuant to Chapter 42, Texas Election Code

Dear General Paxton:

This letter serves as a formal request for your opinion regarding the authority of a Commissioners Court to select and enter a contract with a firm to assist with the redrawing of precinct boundaries.

Background

On February 20th, Representative Matt Morgan brought to light the Fort Bend County Commissioners Court's failure to fulfill their obligation to review and redistrict precincts in accordance with the Texas Elections Code, §§42.006 and 42.031. This neglect resulted in precinct maps that had not been updated since January 1, 2022, leading to a significant number of precincts falling outside the population limits set in state law by 2024.

Following Representative Morgan's communication on this matter, the Commissioners Court took swift action by voting to redraw the precinct maps and allocating the necessary funds. However, a concerning development has arisen: the County Attorney is now asserting that the Commissioners Court lacks the authority to choose the firm that would assist with redrawing the precincts. This stance undermines the authority of the democratically elected government and attempts to concentrate that power within the County Attorney's office. My office firmly believes that the legal authority to make this decision rests solely with the Commissioners Court, unless that authority is delegated to another person.

Analysis

The Texas Constitution grants Commissioners Courts the power to "exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State." Tex. Const. Art. V, Sec. 18. The authority to change county precinct boundaries is explicitly

granted to Commissioners Courts in Subchapter B, Chapter 42 of the Texas Election Code. Consequently, the hiring of a firm to assist in this task falls squarely within the scope of county business as defined by state law.

The first section of Chapter 42, Texas Election Code, titled "Precincts Established by the Commissioners Court," directs Commissioners Courts to divide all territory into election precincts by order. Tex. Elec. Code §42.001. The chapter further instructs Commissioners Courts to regularly review precincts for compliance with population requirements. Tex. Elec. Code §42.031. Additionally, state law empowers local governmental entities like Commissioners Courts to enter contracts for professional services and provides clear guidelines for doing so. Loc. Gov't Code Ch. 2254.

Given the legislature's clear mandate to establish, review, and modify these precincts, it logically follows that the Commissioners Court possesses the authority to select the firm that will execute their order. The redrawing of precinct boundaries and the entering into contracts for professional services are both integral aspects of county business. Therefore, the County Attorney should not be permitted to obstruct the Commissioners Court from selecting a firm to assist in carrying out their duties.

The Commissioners Court's authority to redistrict precincts, including the ability to contract for professional services in pursuit of that goal, is essential for upholding the principles of democratic governance. With that in mind, I humbly request that your office clarify the Commissioners Court's authority in this matter.

Request

In light of the foregoing, I respectfully request that the Attorney General provide his opinion on the following questions:

- Does the Commissioners Court have the legal authority to select a firm to assist with redistricting county election precincts?
- Can a County Attorney unilaterally make the decision to contract a firm of their choice, without a formal order from the Commissioners Court?

Thank you for your time and assistance in this matter. We would be glad to provide any additional information you may require.

Sincerely,



Gary Gates

cc: George Lane, Director of Government Relations, Office of the Attorney General