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OPINION COMMITTEE

January 11, 2000

Attorney General of Texas
Opinion Division
PO Box 12548
Austin, TX 78711-2548

FILE # ML-41235-00
I.D. # 41235

RE: Request for AG opinion, Effect of state appropriated salary supplements on local Government Code Section 152.032

Dear Attorney General's Office:

I am writing to pose a question relating to Section 152.032 of the Texas Local Government Code which states: "the amount of compensation and allowances of a county auditor may not exceed the amount of the compensation and allowances received from all sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the commissioners court."

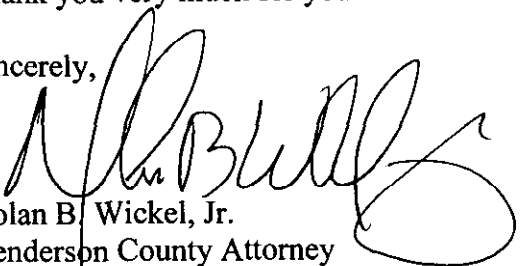
On August 26, 1999, a majority of the District Judges having jurisdiction in Henderson County met for purposes of setting salaries and expenses of the County Auditor. They ordered that "the salary of the County Auditor shall be the same as that of the highest paid County official of Henderson County, except the Judge of the County Court at Law."

The question presented is this: when the commissioners court is setting the auditor's salary in accordance with the district judges' order, must they include state legislated and appropriated salary supplements when determining who the highest paid elected county officer is?

Section 152.032 appears ambiguous on this point as, on one hand, the section refers to "all sources" but, on the other hand, refers to the fact that the official's "salary and allowances are set by the commissioners court". Since the state supplements for elected official are not set or appropriated by the commissioners court, it seems unclear as to whether or not such state supplements should be factored into this equation.

Thank you very much for your assistance in this matter.

Sincerely,


Nolan B. Wickel, Jr.
Henderson County Attorney

CC: Judge Tommy Smith, Henderson County Judge