

700 E. KLEBERG
P. O. BOX 1411
KINGSVILLE, TX. 78364



361-595-8583
FAX- 361-595-4726

RECEIVED

JUN 13 2000

OPINION COMMITTEE

COUNTY of KLEBERG
KINGSVILLE, TEXAS

DELMA RIOS
COUNTY ATTORNEY

RECEIVED

JUN 12 2000

OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION

✓ LR

June 6, 2000

The Honorable John Cornyn
Texas Attorney General
P.O. Box 12548
Capitol Station
Austin, Texas 78711

RQ-0244-JC
41470
FILE # ML-41470-00
I.D. # 41470

Dear Attorney General Cornyn:

The following questions are respectfully submitted for the considered opinion of the Office of the Attorney General of Texas pursuant to the authority of Section 402.042 of the Texas Government Code.

Question #1:

Whether the County may pay the one half of the health premiums for retirees and their eligible dependants for an indefinite period?

Question #2:

Whether the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), P.L. 99-272, applies to county employees, and if it does, does Commissioners Court have the authority to extend health benefits to retirees and/or their dependents pass the limits established in COBRA?

Facts:

There are presently ten retired employees of Kleberg County who have continued their health coverage with the county, for either themselves or themselves and their eligible dependents, by paying their monthly premium. This year, due to an increase in coverage, the premiums went up. These retirees now want the County to pay half of the premiums for them and their dependents for an indefinite period.

Analysis:

Article 3.51-2 (b), TX. Insurance Code, authorizes counties to pay **all or any portion** of an officials, employees, and retirees premium for a policy or policies of group insurance and may **pay any portion** of the premiums on group health, hospital, surgical and/or medical expense insurance coverage for dependents of officials, employees, and retirees.

Article 3.51-2 (c), TX. Insurance Code, authorizes each county of the State of Texas to establish a fund to provide for the.....health,....hospital, surgical, and/or medical insurance of its officials, employees and their dependents, and retirees. There shall be credited to such fund such deductions as may be agreed to in writing by any such official, employee, and retiree, from which fund payment shall be authorized only for the payment of premiums on ...,group health... hospital, surgical, and/or medical expense insurance for officials, employees, and retirees, and their dependents, under such rules and regulations as may be adopted by the county, which claims shall be payable under existing laws in like manner as other county or other political subdivisions.

The Consolidated Omnibus Budget Reconciliation Act (COBRA) passed by the 99th Congress provides that when participants (Employees and Dependents) lose their eligibility for group health coverage because of any of the events listed below, they may elect to continue group health coverage. The continued coverage can remain in effect for a maximum period of either 18 or 36 months depending on the reason that eligibility terminated.

Events qualifying for 18 months continuation are:

1. Reduction of employees work hours, or
2. Employee retirement or termination (voluntary or involuntary, except for discharge for gross misconduct.

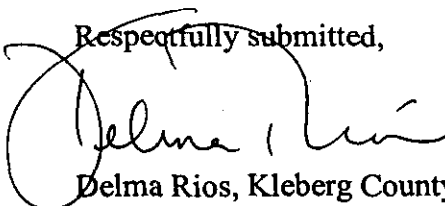
Events qualifying for 36 months continuation are:

1. Death of the Employee;
2. Divorce or legal separation of the Employee;
3. Medicare eligible Employee
4. Children who lose coverage due to eligibility provision (for example: marriage, overage).

Conclusion:

Article 3.51-2(b), Tx. Insurance Code, authorizes counties to pay all or any portion of a retirees premium for a policy of group insurance and may pay any portion of the premiums on group health insurance coverage for dependents of retirees. The continued coverage can remain in effect for a maximum period of either 18 or 36 months depending on the reason that eligibility terminated. (Consolidated Omnibus Budget Reconciliation Act -COBRA).

Respectfully submitted,



Delma Rios, Kleberg County Attorney