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Delta, Franklin, Hopkins Counties

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RQ-0290-JC

October 5, 2000

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OPINION COMMITTEE

FILE # MI-41677-00

I.D. # 41677

Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Dear General Cornyn:

I am requesting an opinion and your advice on the following question:

Based upon the facts below, may the County Tax Assessor-Collector use the interest generated from the Motor Vehicle Inventory Tax Fund to supplement her salary?

The facts of the case are as follows:

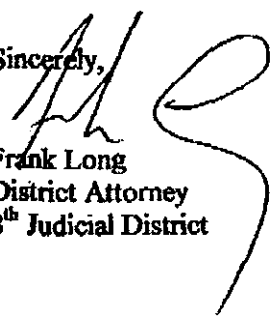
The County Tax Assessor-Collector, rather than her employees, does all of the work necessary to maintain the Motor Vehicle Inventory Escrow Account. Knowing this fund can be used to "defray the cost of administration" under Section 23.122 of the Tax Code, the collector feels justified in supplementing the salary of anyone managing or administering the prepayment program. Since the collector alone manages the escrow account, she believes she should be able to supplement her salary with the interest.

Texas Attorney General Letter Advisory No. 398 (1996) contends the inventory escrow account is the "sole property of the collector". Therefore, the collector cannot retain funds from this account for personal use and benefit. Further, a grant of these funds to a private individual would be impermissible under Article III, section 51 of the Texas Constitution. In light of this opinion, the County Tax Assessor-Collector has no authority to supplement her salary.

However, Texas Attorney General Letter Advisory No. 0135 (1999) concludes there is nothing forbidding the County Tax Assessor-Collector from supplementing the salaries of personnel responsible for managing or administering the prepayment program. Since the collector is responsible for all management of the inventory escrow account, can she qualify as "personnel" so as to benefit from the interest, or, does her elected official status bar her from doing so?

Thanks in advance for you consideration.

Sincerely,


Frank Long
District Attorney
8th Judicial District