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OPINION COMMITTEE

Michael A. Stafford
Harris County Attorney

RQ-0442-JC

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SEP 25 2001
OPEN RECORDS DIVISION

September 20, 2001

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

The Honorable John Cornyn
Attorney General of Texas
Office of the Attorney General
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

FILE # MM-42188-01
I.D. # 42188

FILE # RQ-0397-JC
I.D. # 42180

RE: RQ-0397-JC.

Dear General Cornyn:

In the opinion request referenced above, the Criminal District Attorney of Bexar County asked you several questions relating to a county's obligation to make longevity pay supplements to assistant prosecutors under HB 178. In addition to those questions, would you please address whether "lifetime service credit" must be earned during a continuous period of employment and whether "lifetime service credit" earned in one county transfers to another county in the event an assistant prosecutor changes jobs?

Section 1 of the bill creates § 41.257 of the Government Code and states:

- (a) An assistant prosecutor accrues lifetime service credit for the period in which the assistant prosecutor serves as a full-time, part-time, or temporary assistant prosecutor.
- (b) An assistant prosecutor who is on leave without pay for an entire calendar month does not accrue lifetime service credit for the month.

Additionally, Section 3 of the bill states that the longevity provision "applies to lifetime service credit accrued ... before, on, or after the effective date of this Act."

It appears to be clear that even while an assistant prosecutor is continuously employed in one county, he or she may not earn "lifetime service credit" for every month employed, namely for any entire calendar month in which the assistant prosecutor is on unpaid leave. Our question is, if an assistant prosecutor worked for Harris County for several years, subsequently quit for

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any reason, and then returned to Harris County, would each month before and after the period of non-County employment count toward that assistant prosecutor's "lifetime service credit"? Similarly, if Harris County were to hire an assistant prosecutor who had accrued "lifetime service credit" in another county, would Harris County be obligated to pay longevity based on that accrued "lifetime service credit"?

We appreciate your help in addressing these issues. If you need any additional information, please call the undersigned at 713-755-7159.

Sincerely,

MICHAEL A. STAFFORD
County Attorney



EILEEN C. BEGLE
Assistant County Attorney

APPROVED:



JOHN R. BARNHILL
First Assistant