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OPINION COMMITTEE

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August 23, 2002

Susan Gusky, Chair  
Opinion Committee  
P.O. Box 12548  
Austin, TX 78711

FILE # ML-42767-02  
I.D. # 42767

RQ-0598-JC

**Re: Request for Attorney General's Opinion**

Dear Ms. Gusky:

Please find the enclosed request for an Attorney General's decision. Also, included is a Summary of the Facts and Law. I found very little law for guidance in my limited library.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Randal Lee".

Randal Lee  
Criminal District Attorney

cc: Charles McMichael  
Cass County Judge

Judy Lanier  
Cass County Auditor

Becky Watson  
Cass County Tax Assessor/Collector

Ann Lummus  
Cass County Appraisal District



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Facts:

The Cass County Appraisal District has historically maintained two budgets. All parties agreed for years that a division of estimated expense for each function including labor would be reasonable. One budget for cost related to appraising property values and one budget for costs related to collecting property taxes. They would divide labor costs according to estimated time spent on each function. This year the Appraisal District moved all labor expenses to the main appraisal budget, apparently, using the "the actual costs" language under 6.27(b) of the Texas Property Code. The result is a substantial increase in the county and other entities' cost. The appraisal district's position is that they would need all the employees even if they had no collection functions whatsoever. The appraising budget also contains training that clearly is for tax collecting certification. Apparently, the theory that they have to have training any way and this would be cheaper. The county's position is that the change requires the county and others who do not use the tax collection services to subsidize the salaries of the Appraisal District without any benefit. The county further contends the change is in response to the county

assuming the tax collection function for a few other taxing entities in the county and that this action is in retaliation for those actions. The statute allows reasonable compensation for assessing and collecting taxes limited to actual costs.

**Issue:**

**What are the limits of the Appraisal District's authority in delegating actual costs.**

**Can an Appraisal District drastically change the historical division of actual costs (e.g. salaries) assuming no drastic change in the district's financial or other situation.**

**Law and Application**

If an entity assumes a new function "collecting taxes" actual costs can clearly be shown by increased expenses similar to the situation decided. Op. Atty. Gen 1988, No. JM.996. That decision is clear and fair if the circumstances are such that a county or other entity assumes collecting for another agency by simply adding a few extra duties the cost savings can clearly be beneficial to all parties. The collecting party is voluntarily assuming those duties with little increase in work and the other party is saving time and money.

All local taxing entities must use the appraisal services of the appraisal district. The use of the assessing and collecting services is optional. It seems to reason that the legislature could not have intended that practically all the expenses of the appraisal district be paid through assessing cost on the appraising services, thus requiring counties to subsidize the collection service. In effect forcing all entities to use the district services or pay twice for the services.

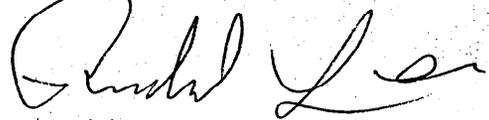
An argument could be made that labor costs could be moved to collecting since they would need the same numbers of employees anyway or whatever budget shifting or other

situation benefits the District or retaliates against another authority.

It seems clear the legislature intended some reasonable restrictions on the actions of the Appraisal District.

The district is limited only by the board. The board members would have a natural inclination to manipulate the budget to whatever benefits the entity they represent. In this case those that do not participate in the collection services are a minority and are being forced to pay for the most expensive portion of the service which would be personnel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randal Lee", written in a cursive style.

Randal Lee  
Criminal District Attorney  
Cass County, Texas