

Robert E. Talton

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OPINION COMMITTEE

November 9, 2005

FILE # ML-44503-05
I.D. # 44503

The Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0414-GA

Re: Opinion Request

Dear General Abbott:

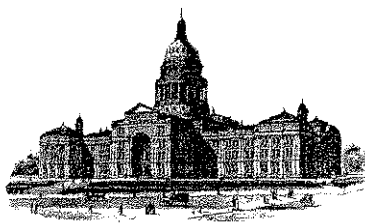
This is a request for an Attorney General's opinion as to the spending of unbudgeted monies during a budget period. It appears that the City of Seabrook is a home-rule city with charter provisions addressing the budget.

As you are aware, Local Government Code Section 102 addresses budget issues for cities. Sections 102.009 and 102.011 basically provide that once Council has passed an ordinance, then the money must be spent in strict compliance with the budget except for an emergency.

It is my understanding that a city can act by minute order, ordinance or resolution. In other words, if a city passes an ordinance for a budget, then the city must use an ordinance to change it.

There are three instances where apparently the City of Seabrook did not so act:

- 1) On May 20, 2003 in an amount of \$80,000.
- 2) On June 17, 2003, the majority of Council attempt to correct their action of May 20, 2003 by declaring it an emergency without an ordinance.
- 3) The third instance was on October 21, 2003 where an amount of \$250,000. was appropriated and an additional \$1,000,000. was added on November 4, 2003.



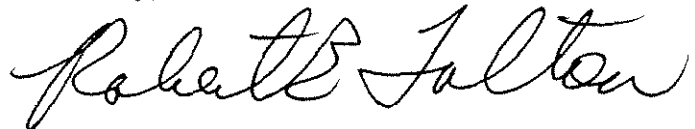
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It is my understanding that no ordinances were proposed for any of these appropriations as well as being over the approved budget. Secondly, the Seabrook charter provisions under Sections 5.21 a & b that any expenditure of \$1,000,000. or more or 30% of the reserve fund must have the vote of the people except in a couple of emergency situations.

On May 7, 2005, the City of Seabrook attempted through a charter change election to correct some of the above errors that had been made.

Enclosed please find copies of the appropriate charter provisions. I would appreciate your opinion.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Talton".

Robert E. Talton
State Representative

RET:ch
Enclosure