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OPINION COMMITTEE**Office of the County Attorney**

Rains County, Texas

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I.D. # 46902

December 7, 2011

The Honorable Gregg Abbott
Attorney General - State of Texas
Attention: Jason Boatright, Chairman
Opinion Request Committee
P.O. Box 12548
Austin, Texas 78711-2548

RQ-1027-GA

Re: Date of Appointment of Emergency Services District Board Member

Dear General Abbott,

I, Robert Vititow, County Attorney of Rains County, respectfully submit the following questions to your office on behalf of Rains County and request that you issue an opinion on the same.

Our commissioners' court, a former commissioner and county judge, and citizens have concerns about the legality of appointing members to the Emergency Services District Board on a date other than January 1 of any given year.

- Question 1. Can a commissioners' court appoint a board member on a date prior to January 1 to be effective on January 1 or does the appointment actually have to be done on January 1 of the year?
- Question 2. If it has to be done on January 1 and it was actually done on December 15, what is the status of the person appointed?

The Texas Health and Safety Code § 775.034(d) provides: "*On January 1* of each year, the commissioners court shall appoint a successor for each emergency services commissioner whose term has expired." H.S.C. § 775.034(d). (emphasis added).

Thank you in advance for your cooperation in these matters. If you have any questions, please feel free to give me call.

Respectfully,



Robert Vititow
Rains County Attorney