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CRIMINAL INVESTIGATOR

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SEP 22 2004

OPINION COMMITTEE

RQ-0275-GA

September 17, 2004

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

FILE # ML-43943-04  
I.D. # 043943

Re: Request for an opinion relating to whether out of state service as a felony prosecutor qualifies as service credit for longevity pay under Government Code section 41.252(a)?

Dear Attorney General Abbott,

Government Code section 41.252 requires county's to pay experienced felony prosecutor's who have accrued at least four years of lifetime service credits longevity pay. Does out of state service as a felony prosecutor for a District Attorney's Office qualify as service credits under the definition of the statute?

**Brief**

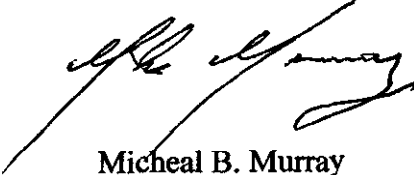
Government Code section 41.257(a) governs the definition of lifetime service credits for assistant prosecutors, and provides that "(a)n assistant prosecutor accrues lifetime service credit for the period in which the assistant prosecutor is a full-time, part-time or temporary assistant prosecutor." This definition does not preclude such allowable service being performed in another state, where one performs all the duties of a felony assistant prosecutor for that jurisdiction. Furthermore, in Attorney General Opinion JC-0473, your office specifically states that the "**only restrictions on the accrual of life-time service credits**" are those found in subchapter D. (Service credits do not accrue while a prosecutor is on unpaid leave, and a prosecutor simultaneously employed by multiple counties only accrues credit for one position). In that same opinion, your office notes that nothing in your analysis suggests a distinction implied by the statute on the "**locale in which the experience (as a felony prosecutor) is obtained.**"

The clear intent of the statute is to retain and reward experienced prosecutors whose pay in the public sector has not kept pace with attorneys in the private sector. This objective would continue to be advanced by allowing experienced assistant prosecutors who have felony prosecutorial service in other jurisdictions to receive allowable

service credits under the statute.

Your assistance in the resolution of this matter is greatly appreciated. If you need further clarification regarding this request, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Micheal B. Murray". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Micheal B. Murray