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WILLIAM M. JENNINGS
CRIMINAL DISTRICT ATTORNEY
GREGG COUNTY

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MAR 06 2006
OPEN RECORDS DIVISION

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LONGVIEW, TEXAS 75601
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February 27, 2006

FILE # ML-44673-06
I.D. # 44 673

The Honorable Greg Abbott
Attorney General of Texas
c/o Opinions Committee
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0460-GA

Re: Request for Attorney General Opinion concerning the statutory maximum salary for the Gregg County Court at Law Judges

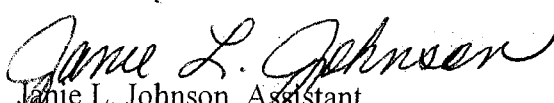
Dear Attorney General Abbott,

Enclosed please find a copy of a request for an opinion from the Gregg County Auditor, Laurie Woloszyn, regarding the above referenced subject. The Gregg County Criminal District Attorneys Office concurs that the Auditor has correctly stated the issues, as well as the statutes governing the statutory maximum salary for the County Court at Law Judges in Gregg County, Texas.

Therefore, the Gregg County Criminal District Attorneys Office makes the same opinion request as set out in the Auditor's letter of January 19, 2006. It is requested that the following additional facts be considered when rendering an opinion:

- 1) Gregg County Commissioners Court voted to budget funds to pay an amount equal to the amount that is \$1000.00 less than the amount currently received by the District Judges in Gregg County, if your Office determines that to be an allowable statutory amount; and
- 2) Gregg County collects fees and costs under Sections 51.702 (a) and (b).

Respectfully submitted,


Jamie L. Johnson, Assistant
Criminal District Attorney
Gregg County, Texas

cc: Judge Alfonso Charles
Judge Becky Simpson
Judge Bill Stoudt
Auditor Laurie Woloszyn

COUNTY AUDITOR

Gregg County, Texas



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January 19, 2006

Certified Mail No 70023150000004915579

The Honorable Greg Abbott
Attorney General of Texas
c/o Open Records Division
P. O. Box 12548
Austin, TX 78711-2548

RE: Attorney General Opinion request from Gregg County pertaining to the maximum salary of the county court at law judges.

Dear Attorney General Abbott:

I have been asked by the county court at law judges in Gregg County to request an Attorney General's opinion regarding their statutory maximum rate of pay.

The statutes relevant to the court at law judges in Gregg County and their salaries are as follows:

- 1) Government Code section 25.0942 (d), which provides, "The judge of a county court at law shall be paid an annual salary that does not exceed the amount that is 90 percent of the total annual salary received by a district judge in the county", and
- 2) Government Code section 25.0005 (a) which provides, that a statutory county court judge "shall be paid a total annual salary set by the commissioners court at an amount that is at least equal to the amount that is \$1,000 less than the total annual salary received by a district judge in the county on August 31, 1999".

The county court at law judges maintain that they should be paid a salary that is at least \$1,000 less than the total annual salary currently received by the district court judges. They argue that the "at least" language is permissive. However, saying that their rate of pay should be \$1,000 less than the current salary received by the district court judge ignores the part of the statute that provides that the court at law judges shall be paid \$1,000 less than the total annual salary received by a district judge in the county on August 31, 1999.

The county court at law judges argue that section 25.0005 (a), minus the August 31, 1999 part, prevails over 25.0942 (d).

Government Code section 25.0942 (d) is a statute written specifically for county courts at law in Gregg County. Section 25.0942 (d) provides that a county court at law judge shall be paid an annual salary that does not exceed the amount that is 90 percent of the total annual salary received by a district judge in the county. Section 25.09942 (d) is both specific and mandatory to Gregg County.

The current maximum salary of a district judge from all sources is \$132,500.

Under section 25.0942 (d), 90% of the current district judges' salary is \$119,250.

Under section 25.0005 (a), at least \$1,000 less than the district judges' salary on August 31, 1999, is \$100,117. (The state salary of a district judge on 8-31-1999 of \$92,217 plus salary from county sources of \$8,900, for a total of \$101,117.)

Section 25.0005 (a) when read in its entirety does not conflict with 25.0942 (d). The present rate of pay for the county court at law judges is \$119,250, which is 90% of the district court judge's salary. Said salary, \$119,250, is an amount that is "at least \$1,000 less than the rate of pay of district judges on August 31, 1999". The present rate of pay conforms to both section 25.009 (a) and 25.0942 (d).

A commissioners' court must act according to the law and it is without power to act unless given the authority by law to do so. Therefore, it is respectfully requested that the Attorney General's Office issue an opinion as to the proper construction of the statutes and therefore determine if the Gregg County Commissioners' Court is paying the county court at law judges correctly, according to the statute. Also, is it appropriate to use the total salary received from all sources both state and county when calculating the maximum amount allowed for both district judges and county court at law judges?

Respectfully submitted,

Laurie Woloszyn
County Auditor