



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 23, 1998

The Honorable Bill Moore
Johnson County Attorney
2 North Main Street, 1st Floor Courthouse
Cleburne, Texas 76031

Letter Opinion No. 98-013

Re: Whether a commissioners court may assign payroll preparation duties to the county personnel director (RQ 1000)

Dear Mr. Moore:

You have requested our opinion as to whether the Commissioners Court of Johnson County may assign the responsibility for preparing the county payroll to the county director of personnel.

In Attorney General Opinions JM-911 (1988) and JM-986 (1988), this office concluded that preparation of the county payroll was a core function of the county treasurer and could not validly be assigned by the commissioners court to the county auditor. Those decisions were recently reversed by the Texas Supreme Court in *Commissioners Court of Titus County v. Agan*, 940 S.W.2d 77 (Tex. 1997). There, the court declared that “[t]hrough the Legislature has enumerated several functions that cannot be taken away from the County Treasurer, preparing the payroll is not one of them.” *Id.* at 81; *see also* Attorney General Opinion DM-440 (1997). The court found that, since the legislature has not assigned payroll preparation duties to a particular county official, “the Commissioners Court acting in its legislative capacity may delegate the responsibilities to an appropriate county official.” Furthermore, the court held that the county auditor was “an appropriate county official” because the auditor “has the [statutory] authority to perform the clerical functions associated with payroll preparation.” *Id.*

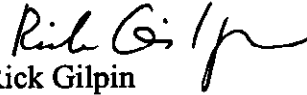
In the situation you pose, the commissioners court wishes to delegate payroll preparation duties, not to the county auditor, but to the county personnel director, an officer whose position is not created by statute. Nevertheless, the court’s opinion in *Agan* strongly implies that such delegation is permissible. Although the court’s direct holding was only that those duties could be delegated to the county auditor, the court also said: “Another statute suggests that anyone the Commissioners Court authorizes has the authority to administer payroll. Tex. Loc. Gov’t Code § 155.062(a)(2).”¹ *Id.* In our opinion, the Supreme Court, if presented with the issue, would find that the commissioners court of Johnson County is authorized to transfer responsibility for preparation of the county payroll to “an appropriate county official,” including the county director of personnel.

¹Now Local Gov’t Code § 155.062(a)(1), as amended by Act of May 5, 1997, 75th Leg., R.S., ch. 96, § 1, 1997 Tex. Sess. Law. Serv. 185, 185.

S U M M A R Y

The Commissioners Court of Johnson County may transfer responsibility for preparation of the county payroll to the county director of personnel.

Yours very truly,



Rick Gilpin
Deputy Chair
Opinion Committee