

THE ATTORNEY GENERAL

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An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0579-KP

Requestor:

The Honorable Paul Bettencourt

Chair, Senate Committee on Local Government

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Interpretation and application of Tax Code chapter 151 to out-of-state resellers

(RQ-0579-KP)

Briefs requested by February 28, 2025

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202500604

Justin Gordon

General Counsel

Office of the Attorney General

Filed: February 19, 2025



Opinions

Opinion No. KP-0482

The Honorable Daniel M. Gonzalez

Dimmit County Attorney

103 North 5th Street

Carrizo Springs, Texas 78834

Re: Authority of a county commissioners court to use county labor and equipment to open and close graves in private cemeteries (RQ-0541-KP)

SUMMARY

Under Chapter 791 of the Texas Government Code--the Interlocal Cooperation Act--a county may not agree to perform a governmental function or service for a cemetery organization unless the cemetery organization is a local government, an Indian tribe, or a state agency.

Pursuant to Health and Safety Code subsection 694.002(a), the commissioners court of a county "shall provide for the disposition of the body of a deceased pauper." To the extent a county proposes to establish a burial program that extends beyond the disposition of the body of a deceased pauper, it is not authorized under chapter 694.

Health and Safety Code section 713.021 authorizes a commissioners court to establish by resolution "a perpetual trust fund to provide maintenance for a neglected or unkept public or private cemetery in the county." A county that establishes a perpetual trust fund is not relieved from the prohibition against using county employees or equipment to open or close graves when those graves are in a private perpetual care cemetery or a cemetery maintained by a religious or fraternal organization.

Opinion No. KP-0483

The Honorable Marco A. Montemayor

Webb County Attorney

1110 Washington Street, Suite 301

Laredo, Texas 78040

Re: Whether a taxing unit is entitled to recover attorney's fees pursuant to Property Tax Code section 33.48 in certain circumstances (RQ-0544-KP)

SUMMARY

Section 33.07 of the Property Tax Code authorizes a taxing unit to impose a penalty to defray the costs of delinquent tax collection. The section 33.07 penalty is solely for the purpose of providing compensation to a contract attorney.

Section 33.48 of the Property Tax Code provides that in a suit to collect a delinquent tax a taxing unit is entitled to recover attorney's fees. However, a taxing unit may not both recover attorney's fees under section 33.48 and impose the section 33.07 collection penalty.

A court would likely conclude a taxing unit that contracts with a private attorney to enforce the collection of delinquent taxes may--in lieu of imposing the section 33.07 penalty--initiate a delinquent tax suit after February 1 but before July 1 of the year in which the taxes become delinquent and recover section 33.48 attorney's fees.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202500621

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Filed: February 19, 2025

