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OPINION COMMITTEE

WEBB COUNTY ATTORNEY'S OFFICE

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LAREDO, TEXAS 78040

FILE # ML-47522-14
I.D. # 47522

RQ-1187-GA



MARCO A. MONTEMAYOR

Webb County Attorney

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February 18, 2014

VIA EMAIL: Opinion_committee@texasattorneygeneral.gov

Honorable Greg Abbott
Attorney General of Texas
Open Records Division
209 W. 14th Street, 6th Floor
Austin, Texas 78701

Re: Request for Attorney General Opinion on the Constitutional funding of a County Energy Transportation Reinvestment Zone.

Dear Mr. Abbott:

This is a request for an opinion regarding the amendment to the Texas Transportation Code §222 and §256 by Senate Bill 1747. Does the funding of projects by any of the questions stated below resolve the possibility of constitutional challenges for violating the equal and uniform taxation requirement of article VIII of the Texas Constitution? See Exhibit 3. In light of the conflict of these areas of law what is the enabling statutory authority to use such tax increment financing methodology contrary to the equal and uniform taxation provision of the Texas Constitution.

1. If a County is authorized to form a County Energy Transportation Reinvestment Zone (CETRZ), collect the increased ad valorem tax increments, and pledge and assess all or part of the incremental valuations to pay for the costs of an energy project, then do the constitutional principles of "equal and uniform" taxation apply to a 'special assessment district' such as a (CETRZ)?
2. Does the pledging by a County of the 100% of the incremental increase of the additional ad-valorem tax value of the real property located within the County Energy Transportation Reinvestment Zone (CETRZ), for a period of ten years, plus general fund monies to provide for the expected funding shortfall that will be needed to provide for the construction costs of energy transportation projects located solely within the designated energy reinvestment zone, violate the equal and uniform taxation provision in the Texas Constitution by creating a disparate treatment

of similarly situated tax payers within the County, i.e., the taxpayer participating in the CERTZ, has dual access to both the 1.) incremental increase in additional ad-valorem tax value for a ten year period, plus the ability to tap into 2.) additional revenues from the county general fund, due to the inability of the CERTZ to provide for 100% of the total transportation projects costs needed to fund the project, while 3.) the taxpayer that is not within the CERTZ, has only access to the County general fund monies thereby possibly violating the equal and uniform taxation provision of the Article VIII, Section I, of the Texas Constitution?

3. Senate Bill 1747 allows a County to form a County Energy Reinvestment Transportation Zone (CERTZ), to fund roadway projects with the incremental increases in the tax valuations from the zone for a minimal ten year period. Does the formation of a County Energy Transportation Reinvestment Zone (CETRZ), violate the constitutional requirement that ad-valorem taxes are to be assessed for the purpose of meeting “current annual wants” instead of the general purpose and scheme of tax increment financing which is to currently exempt a portion of the value of the property from its share of general revenue taxes until the cost of improvements are paid.’ Taylor v. Boyd, supra. in direct violation of the constitutional requirement that the taxes necessary to meet the current annual want are those which the Texas Constitution insists be equal and uniform. Tex. Const. art. VIII, § 1. It seems to appear that a ten year payout for project costs would be in direct violation of the “current annual wants” provision of the Texas Constitution which requires that taxes are necessary only to meet the current annual wants, not a 10 year payout for the costs of the project which the Texas Constitution insists be equal and uniform? Is a County authorized to fund the roadway improvements to be located solely within the zone from a hybrid funding source comprised of the incremental increase in property tax valuations from the real property located within the County Energy Transportation Reinvestment Zone (CETRZ), plus money from the County’s General Fund?
4. If a County is prohibited from funding either a County Transportation Reinvestment Zone (TRZ), and/or a County Energy Transportation Reinvestment Zone (CETRZ) by collecting an ad valorem tax increment, and pledging and assessing all or part of the increment increase in valuation to secure bonds to pay the costs of an energy project due to violation of the equal and uniform taxation provision in the Texas Constitution by creating a disparate treatment of similarly situated tax payers (as stated in prior Tex. Atty. Gen. Op. GA-0981), and the provisions of Senate Bill 1747, which now specifically prohibits the pledging of the tax increment to finance bonds for the project costs, as set forth in Texas Transportation Code (T.T.C.) Section 222.1071 (j); then why does Senate Bill 1747 later appear to allow for such tax increment financing of such bonds if a County forms a road utility district, as set forth in T.T.C. Section 222.1071 (n), which states that a “road utility district may issue bonds to pay for all or part of the transportation infrastructure project and that it may pledge and assign all or part of a specified amount of money in the tax increment account to secure those bonds if the money, (1) constitutes a tax increment and (2) pledges all or part of a specified amount of the tax increment to the road utility district.? In light of the conflict of these areas of law what is the enabling authority to use such tax increment financing methodology contrary to the equal and uniform taxation provision of the Texas Constitution?

FACTUAL BACKGROUND

Webb County is considering the formation of a County Energy Transportation Reinvestment Zone (CETRZ). According to Attorney General Opinion GA-0981(Tex.A.G.) 2012, the Texas Attorney General concluded that the incremental tax funding method would be subject to constitutional challenges as violating the equal and uniform taxation requirement in article VIII. Section 1(a) of the Texas Constitution. See Exhibit 4.

On September 1, 2013 Senate Bill 1747 was passed and enacted into law. The law appears to cure the prior constitutional violation regarding pledging of the incremental taxes to secure bond indebtedness in order to fund the infrastructure projects, by prohibiting such incremental tax funding methodology. See T.T.C. 222.1071 (j). However, further down on Senate Bill 1747 it appears that if you form a county road utility district that somehow you are now allowed to use that incremental tax funding methodology to fund the road utility incremental tax account. T.T.C. 222.1071(n).

It appears that legislative intent was to ban such incremental tax funding methodology as has been set forth in earlier in Tex. Atty. Gen. Op. GA-0981 cited herein as well as the first part of Senate Bill 1747. See Exhibit 2. It appears also that incremental tax financing to secure bonds to be constitutionally prohibited for a CETRZ and yet allowed later in the same bill by forming a road utility district instead of a CETRZ.

Texas Department of Transportation disseminated a PowerPoint presentation outlining how counties can leverage local funds for transportation projects titled County Energy Transportation Reinvestment Zones. See Exhibit 1.

However, in light of the amendment to the Texas Transportation Code §222 and §256 by Senate Bill 1747 does the funding of the project by any of the methods stated above resolve the possibility of constitutional challenges for violating the equal and uniform taxation requirement of article VIII of the Texas Constitution. See Exhibit 3.

LEGAL AUTHORITY

Attorney General Opinion. see Exhibit 4.

In Texas Attorney General Opinion GA-0981 (2012) the opinion stated the following;

The article VIII, section 1(a) requirement of equal and uniform taxation applies to counties. *See Parker Cnty. v. Spindletop Oil & Gas Co.*, 628 S.W.2d 765, 767 (Tex. 1982). We are not aware of any basis for determining that a county is authorized by the Texas Constitution to issue bonds secured by a pledge of an ad valorem tax increment. Consequently, we conclude that a county's issuance of tax increment financing bonds secured by a pledge of the county's ad valorem tax increment would be subject to constitutional challenge as violating the equal and uniform taxation requirements in article VIII, section 1(a) of the Texas Constitution.

Texas Senate Bill 1747. see Exhibit 3.

Texas Senate Bill 1747 Chapter 256 Transportation code Section 2. Subchapter E

(f)(3)... **establish an ad valorem tax increment account** for the zone or provide for the establishment of a joint ad valorem tax increment account, if applicable, and (4)...

Section 2 Subchapter E, Chapter 222, Transportation Code (i)(1)-(5) that a **county may use money in the tax increment account** to provide: (A) matching funds ... and (B) funding for one or more transportation infrastructure projects located in the zone.

Section 2 Subchapter E, Chapter 222, Transportation Code (n) In the alternative, to assist the county in developing a transportation infrastructure project, if authorized by the commission under chapter 441, around utility district may be formed under that chapter that has the same boundaries as a county energy transportation reinvestment zone created under this section. The road utility district **may issue bonds to pay all** or part of the cost of transportation infrastructure project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds if the county: (1) collects a tax increment; and (2) pledges all or a specified amount of the tax increment to the road utility district.

Section 3 Subchapter 222.110, Transportation Code, (a)(2) Transportation reinvestment zone includes a county energy transportation reinvestment zone.

House Committee Report Version. see Exhibit 2.

The bill would amend the Transportation Code to allow counties to designate County Energy Transportation Reinvestment Zones in order to promote transportation infrastructure projects in areas affected by oil and gas exploration and production activities. The bill would allow counties to use revenue from taxes designated to a CERTZ to finance certain transportation projects.

Reference Authority

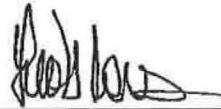
1. Tex. Atty. Gen. Op. GA-0981 (Tex.A.G. 2012).
2. Tex. Atty. Gen. Op. MW-337 (Tex.A.G. 1981).
3. Tex. Atty. Gen. Op. GA-0953 (Tex.A.G. 2012).
4. Texas Constitution Art. VIII §1-g(b) 1981 voter approved amendment
5. Texas Constitution Art. VIII, §1(a) equal uniform taxation applies to counties
6. *Collingsworth Cnty. V. Allred*, 40 S.W.2d 13,15 (Tex. 1931)
7. *In re B.L.D.*, 223 S.W.3d 340, 349 (Tex. 2003)
8. *Texas Senate Bill 1747 eff.* September 1, 2013

REQUEST FOR OPINION

In sum, Webb County needs clarification on the constitutionality of Texas Senate Bill 1747, the amendment to the Texas Transportation Code in relation to the restrictions created by the Texas Constitution Article VIII (1) in order to lawfully fund the CETRZ project.

Thank you, in advance for your attention to this matter. If you have any questions, or if you require additional information, please do not hesitate to call. 956-523-4044.

Respectfully submitted,



Leo Flores
Webb County Auditor
1110 Washington, Suite 201
Laredo, Texas 78040



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2014

The Honorable Marco A. Montemayor
Webb County Attorney
1110 Washington Street, Suite 301
Laredo, Texas 78040

Opinion No. GA-1076

Re: Constitutional questions related to funding
of County Energy Transportation Reinvestment
Zones (CETRZ) (RQ-1187-GA)

Dear Mr. Montemayor:

On behalf of the Webb County Auditor, your office inquires about recently enacted Senate Bill 1747, relating to county energy transportation reinvestment zones,¹ and asks whether the tax increment funding mechanism may be subject to challenge under article VIII, section 1(a) of the Texas Constitution, which requires ad valorem taxation to be equal and uniform. Request Letter at 1; *Parker Cnty. v. Spindletop Oil & Gas Co.*, 628 S.W.2d 765, 767 (Tex. 1982).

Senate Bill 1747 adds section 222.1071 to the Transportation Code and authorizes the creation of a county energy transportation reinvestment zone (“CETRZ”) to fund transportation improvements in areas affected by oil and gas exploration activities.² A county creates a CETRZ by designating an affected area, or zone, to promote one or more transportation infrastructure projects in the area. *See* TEX. TRANSP. CODE ANN. § 222.1071(b)(1) (West Supp. 2013). The order designating the zone must create a tax increment account and establish the ad valorem tax increment base year. *See id.* § 222.1071(f)(2)–(3); *see* Tex. Att’y Gen. Op. No. GA-0549 (2007) at 2–3 (explaining how tax base of total appraised property value in a zone is designated and that any increase in the tax revenue over taxes due on the base value—the tax increment—is captured and put into a separate fund). A county pays the tax increment, less specified amounts, into the tax increment account. *See* TEX. TRANSP. CODE ANN. § 222.1071(h) (West Supp. 2013). Tax increment funds may be used for infrastructure projects and to apply for grants from the state transportation infrastructure fund for zone infrastructure projects. *See id.* § 222.1071(i); *see also id.* §§ 256.101–.106 (providing for the Transportation Infrastructure Fund).

¹*See* Letter from the office of Honorable Marco A. Montemayor, Webb Cnty. Att’y, to Honorable Greg Abbott, Tex. Att’y Gen. at 1 (Feb. 18, 2014), <http://www.texasattorneygeneral.gov/opin> (“Request Letter”).

²*See* Act of May 26, 2013, 83rd Leg., R.S., ch. 1372, §§ 2, 7, 2013 Tex. Gen. Laws 3640, 3642–44, 3645 (providing that it prevails); *see also* Act of May 17, 2013, 83rd Leg., R.S., ch. 1134, § 1, 2013 Tex. Gen. Laws 2703–05.

Your several questions about section 222.1071 are intricate and include multiple aspects. *See* Request Letter at 1–2. Yet, the fundamental issue common to the questions is the potential impact of the constitutional “equal and uniform” limitation on the CETRZ tax increment funding mechanism. *See id.* Despite the differing emphases of the questions, the analysis under the equal and uniform provision is the same so we consider them together.

Tax increment financing has been considered in previous attorney general opinions. We begin with Opinion MW-337. *See* Tex. Att’y Gen. Op. No. MW-337 (1981). Opinion MW-337 concluded that a statute authorizing a municipal tax increment scheme was invalid under the equal and uniform requirement absent an enabling constitutional amendment. *See id.* at 5. The opinion observed that because the tax increment revenue was dedicated to the reinvestment zone, it was not available for the general support of the municipality. *Id.* at 4–5. Opinion MW-337 distinguished the impact on property inside the reinvestment zone from the impact on property outside the reinvestment zone: “[A] parcel of property located in the tax incremental [zone] (if its value has been enhanced) will not pay the same amount or ratio of taxes for *the general support of the city* that will be paid by a parcel of equal value located outside the [zone].” *Id.* at 5.

Subsequent to Opinion MW-337, the voters adopted article VIII, section 1-g(b) of the Texas Constitution, which authorizes cities and towns to engage in tax increment financing. TEX. CONST. art. VIII, § 1-g(b); *see* Tex. Att’y Gen. Op. Nos. JC-0152 (1999) at 5 (characterizing section 1-g(b) as an exception to the equal and uniform requirement), JC-0141 (1999) at 3 (same). A proposed constitutional amendment to grant similar authority to counties was defeated by the voters in 2011. *See* Tex. Att’y Gen. Op. No. GA-0981 (2012) at 3 (noting rejection).

Opinion GA-0981 examined a similar provision, section 222.107 of the Transportation Code, which authorizes a county to create a transportation reinvestment zone (“TRZ”) and to issue bonds to pay the costs of TRZ transportation projects. *See* Tex. Att’y Gen. Op. No. GA-0981 (2012) at 1; TEX. TRANSP. CODE ANN. § 222.107(c) (West Supp. 2013). As considered in the opinion, section 222.107 authorized a county to use the tax increment derived from the TRZ to secure the bonds. Tex. Att’y Gen. Op. No. GA-0981 (2012) at 1. This office concluded that a “county’s issuance of tax increment financing bonds secured by a pledge of the county’s ad valorem tax increment would be subject to constitutional challenge as violating the equal and uniform taxation requirements . . . of the Texas Constitution.” *Id.* at 3. Key to the determination of the disparate tax treatment under the equal and uniform provision in both opinions was the fact that the tax revenue from a portion of the value of property within the zone was diverted from the general support of the city or county due to the pledge of the tax increment.

As article VIII, section 1-g(b) remedied the equal and uniform concern for only cities and towns, a dispositive issue in Opinion GA-0981 was the fact that article VIII, section 1-g(b) did not include counties. *See id.* at 2 (“The . . . amendment . . . did not extend the Legislature’s enabling authority to counties.”). We conclude, as we did in Opinion GA-0981, that absent a constitutional amendment, section 222.1071’s authorization for counties to pledge tax increments to the CETRZ could be subject to challenge under the equal and uniform provision.

Our conclusion is not altered by the fact that section 222.1071 authorizes a county to pledge the tax increment to a road utility district. *See* TEX. TRANSP. CODE ANN. §§ 222.1071(i)(5) (West Supp. 2013) (authorizing a county to pledge money in the tax increment account to a road utility district), 222.1071(n) (authorizing creation of road utility district with the same boundaries as the CETRZ); Request Letter at 2. Pledging the tax increment to another entity for use in the CETRZ does not change the fact that the tax increment is dedicated to a use other than the general support of the county. Your request letter suggests that the constitutional infirmity in section 222.107, at issue in Opinion GA-0981, was the fact that the tax increment secured county-issued bonds. *See* Request Letter at 2; *see also* Brief from James P. Allison, Cnty. Judges & Comm'rs Ass'n at 3–4 (Mar. 14, 2014) (on file with Op. Comm.) (asserting that subsection 222.1071(j) was enacted to address constitutional concern about county tax increments being used to service bond debt discussed in Opinion GA-0953).³ Concern about a county's issuance of bonds misconstrues Opinion GA-0981. The issue in Opinion GA-0981 was the tax disparity caused by the pledge of the tax increment to the TRZ: the bonds were merely the authorized financing method. *Cf.* Tex. Att'y Gen. Op. No. GA-0514 (2007) at 7 (recognizing in municipal context that tax increment reinvestment zone improvements can be “financed with bond or note proceeds or by some other method”). Neither the prohibition of the use of bonds nor the involvement of a road utility district remedies the potential constitutional infirmity here because neither resolves the disparity between the tax treatment of property located in the CETRZ and property located outside of the CETRZ.⁴

In your remaining query, you ask in essence whether a county may fund the tax increment account with additional money from the county's general revenues. Request Letter at 2. A county has only that power expressly granted or necessarily implied therefrom. *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 28 (Tex. 2003). Subsection 222.1071(h) expressly provides that a county “may[,] from taxes collected on property in a zone, pay into the tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts” specified. TEX. TRANSP. CODE ANN. § 222.1071(h) (West Supp. 2013). In this section, the Legislature's specified method of funding a CETRZ does not include funds from a county's general revenue. Moreover, while county revenue may be spent for a county public purpose, committing general revenue beyond a year is unconstitutional debt. *See* TEX. CONST. art. XI, § 7; *Stevenson v. Blake*, 113 S.W.2d 525, 527 (Tex. 1938) (defining “debt” by reference to satisfaction of pecuniary obligations “out of the current revenues for the year”). Accordingly, a county creating a CETRZ under section 222.1071 may not place county general revenue funds into the tax increment account.

³*See* Tex. Att'y Gen. Op. No. GA-0953 (2012) at 3; Tex. Att'y Gen. Op. No. GA-0981 (2012) at 2 n.2.

⁴Unlike section 222.107, section 222.1071 does not authorize a county to abate ad valorem taxes on property in the zone or authorize a conterminous road utility district to impose its own taxes in an amount equal to the abated tax. *Cf.* TEX. TRANSP. CODE ANN. § 222.107(h)(2)–(3), (h-1), (i), (j) (West Supp. 2013).

S U M M A R Y

A county's use of tax increment financing to fund transportation projects in a county energy transportation reinvestment zone could be subject to challenge under the equal and uniform taxation requirement in article VIII, section 1(a) of the Texas Constitution.

A county creating a county energy transportation reinvestment zone under section 222.1071 of the Transportation Code may not place general revenue funds into the tax increment account.

Very truly yours,

A handwritten signature in black ink, appearing to read "Greg Abbott", is written over the typed name.

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JAMES D. BLACKLOCK
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER
Chair, Opinion Committee

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**HOUSE SELECT COMMITTEE ON
TRANSPORTATION FUNDING, EXPENDITURES & FINANCE
JOE C. PICKETT
CHAIR**

August 21, 2014

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

RE: County Use of Tax Increment Financing and Related Issues

Dear General Abbott:

I am writing to seek clarification regarding county use of tax increment financing as a result of Opinion No. GA-1076 (Aug. 14, 2014). I have been contacted by representatives of counties and other interested parties who have indicated that Opinion No. GA-1076 has created confusion regarding the constitutionality of this method of financing, particularly in light of your prior opinions. I am concerned that this lack of clarity could impact the ability of Texas counties to reap the benefits of important financing tools that the Legislature has created, including the transportation reinvestment zone ("TRZ") model (described below) which is intended to assist counties in dedicating funds to needed transportation projects without raising taxes.

In response to a previous request from my office, you issued Opinion No. GA-0953 (June 18, 2012), in which you concluded that a county is not statutorily authorized to issue tax increment financing bonds under Chapter 311 of the Texas Tax Code. However, Opinion No. GA-0953 further recognizes the authority of a county to deposit money into a tax increment fund for a tax increment reinvestment zone ("TIRZ") which can be used to "satisfy claims of holders of tax increment bonds or notes issued for the zone, to pay projects costs for the zone, . . . or to repay other obligations incurred for the zone." *See* TEX. TAX CODE §311.014(b). In fact, you stated in Opinion No. GA-0953 that "the authority to levy taxes that support a tax increment fund is distinct from the authority to issue bonds" and clarified that only a municipality may issue tax increment financing bonds and pledge the tax increment fund as security. In other words, Opinion No. GA-0953 recognizes the authority of a county to deposit funds into a tax increment account provided that the county is not the entity that issues bonds secured by the proceeds of that tax increment account.

You again addressed a county's lack of authority to issue bonds secured by tax increment financing in Opinion No. GA-0981 (Dec. 12, 2012). In that opinion you found, in the context of county TRZs formed under Section 222.107 of the Texas Transportation Code, that a county's use of ad valorem tax increments *to secure bonds* could be subject to constitutional challenge as violating the equal and uniform taxation requirement in article VIII, section 1(a) of the Texas Constitution. Yet the ability of a county to collect or deposit funds into a tax increment account was not questioned in Opinion No. GA-0981; rather you found that the potential constitutional infirmity extended only to the authority of counties to secure bonds issued by funds in such an account.

The prior two opinions discussed above appear to uphold the authority of counties to engage in tax increment financing so long as they do not issue bonds secured by tax increment funds. However, that position seems to be potentially at odds with your recently issued Opinion No. GA-1076, which raises several questions related to county energy transportation reinvestment zones ("CETRZs"), another tax increment financing concept. CETRZs, in similar fashion to TRZs and TIRZs, rely on collection of an ad valorem tax increment and the use of that increment to fund statutorily-authorized projects. Unlike the prior opinions, Opinion No. GA-1076 holds that despite the fact that CETRZs lack statutory authority to issue bonds, CETRZs could nonetheless be subject to constitutional challenge on the grounds that the tax increment collected in a CETRZ results in those dedicated funds not being available for the general support of the county, and therefore violates the equal and uniform taxation requirement of the Texas Constitution.

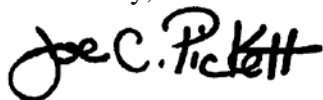
As noted above, TIRZs, TRZs, and CETRZs all use similar tax increment financing methods. Currently, there are over 150 TIRZs existing in the state of Texas in which a county is a participating taxing unit.¹ It is my understanding that there are approximately 20 TRZs that have been formed by counties since the initial authorizing legislation was passed in 2007. And there are numerous CETRZs which have been formed since their initial authorization in 2013 (through SB 1747) because *their formation is a statutory requirement* for counties affected by energy sector activities to access grant funds from the Transportation Infrastructure Fund ("TIF") administered by the Texas Department of Transportation. The potential breadth of Opinion No. GA-1076 and its apparent inconsistency with the prior rulings has raised uncertainty as to the continued viability of what have been useful tools for counties to utilize in supporting transportation and other projects within their geographic boundaries. Therefore, I respectfully request your opinion on the following questions:

¹ See Tex. Comptroller of Pub. Accounts, Biennial Registries of Reinvestment Zones for Tax Abatements and Tax Increment Financing at 42-56 (Dec. 2012), *available at* http://www.texasahead.org/reports/TIF_Abatement/2012/registry.pdf.

1. Is it constitutionally permissible for a county to form a TRZ pursuant to Section 222.107 of the Texas Transportation Code if the county does not issue debt secured by the tax increment revenues?
2. Is it constitutionally permissible for a county which has formed a TRZ to deposit funds into a tax increment account pursuant to Section 222.107 of the Texas Transportation Code and to commit all or a portion of those funds to the payment of project costs?
3. Is it constitutionally permissible for a county which has formed a TRZ to pledge, transfer or assign all or a part of the tax increment revenues to another entity as a contribution to, or partial payment of, costs of a project for which the zone was formed?
4. Is it constitutionally permissible for a county to form a TIRZ pursuant to Section 311.003 of the Texas Tax Code if the county does not issue debt secured by the tax increment revenues?
5. Is it constitutionally permissible for a county which has formed a TIRZ to pledge, transfer or assign all or part of the tax increment revenues to another entity as a contribution to, or partial payment of, costs of a project for which the zone was formed?
6. Is it constitutionally permissible for a county to form a CETRZ pursuant to Section 222.1071 of the Texas Transportation Code?
7. Is it constitutionally permissible for a county which has formed a CETRZ to use the tax increment proceeds as all or part of the matching funds necessary to receive a grant from the TIF established pursuant to SB 1747?
8. Is the analysis of whether a county TRZ, a county TIRZ, or a CETRZ is constitutional affected by the nature of the project for which tax increment funds are used? In other words, if a county makes a finding that the project supported by tax increment funds benefits the entire county and not just the property located within the boundaries of the zone, does that affect that equal and uniform taxation analysis?

Given the importance of tax increment financing for numerous counties across the State, I would appreciate any efforts by your office to expedite review of these questions. If you have any questions regarding this request or need further information, please contact me at 512-463-0596.

Sincerely,

A handwritten signature in black ink that reads "Joe C. Pickett". The signature is stylized with a large, flowing "J" and "P".

Joe C. Pickett
Chair