



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

June 1, 1990

Honorable Dan Meehan  
Fannin District & County Attorney  
Fannin County Courthouse  
Bonham, Texas 75418

LO-90-32

Dear Mr. Meehan:

You ask the following question:

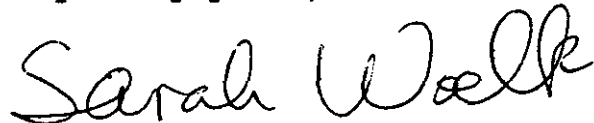
Is the County Auditor authorized to accept a salary supplement for the administration of State and Federal Grant Programs when that supplement raises the auditor's salary higher than that of the county tax assessor-collector?

Section 152.032 of the Local Government Code, as adopted by the 70th Legislature, states that the salary of a county auditor may not exceed the salary paid to the county tax assessor-collector. Acts 1987, 70th Leg., ch. 149, at 929; See also §§ 152.031 - 152.035 (dealing with salary of auditor). Section 152.031 was derived from former article 1645, V.T.C.S., which was repealed in 1987 by the act that adopted the Local Government Code. Acts 1987, 70th Leg., ch. 149, at 707. The 70th Legislature also adopted a bill amending article 1645 to provide that in counties with a population of 10,000 or more, the amount of compensation and allowances paid to the county auditor should not exceed "an amount equal to the compensation and allowances received from all sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the Commissioners Court." Acts 1987, 70th Leg., ch. 57, § 1, at 155. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature that enacted the code. Gov't Code § 311.031(c). The amendment is preserved and given effect as part of the code provision. *Id.* Therefore, since the population of Fannin County exceeds 10,000, the salary of the county auditor may exceed the salary of the county tax assessor-collector as long as the auditor's salary and allowances do not exceed the salary and

allowances of the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the commissioners court.

You also ask whether a portion of the auditor's salary could be paid from the proceeds of a federal grant. The expenditure of federal grant money depends of the terms of a specific grant. See Attorney General Opinion M-887 (1971). You should direct questions about the use of grant funds to the federal agency that provided the grant. We note, however, that the grant application you forwarded to us does not budget money for the county auditor's salary.

Very truly yours,



Sarah Woelk, Chief  
Letter Opinion Section

SW/lcd

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