

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>.)

Opinions

Opinion No. KP-0521

The Honorable Kevin Sparks

Chair, Senate Committee on Natural Resources

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether the City of Austin's proposed energy code conflicts with Texas Utilities Code §181.903 (RQ-0600-KP)

S U M M A R Y

Subsection 181.903(b) of the Utilities Code prohibits the City of Austin from adopting or enforcing a code that has "the purpose, intent, or effect of directly or indirectly . . . discriminating against" a utility service based on the type or source of energy. As such, the City of Austin's Energy Code cannot lawfully memorialize opposition to the use of natural gas utility services and is invalid to the extent that it does so.

Opinion No. KP-0522

The Honorable Gary D. Trammel

Stephens County Attorney

200 West Walker, Room 206

Breckenridge, Texas 76424

Re: Miscellaneous questions regarding commissioners court authority over employees of local elected officials (RQ-0610-KP)

S U M M A R Y

Though it may be legally advisable, we find no statute that requires all county elected officials to publicly advertise for job openings in their offices.

Whether any particular employment practice adopted by a commissioners court as to an elected official's employee is permissible depends on (1) whether the action taken is within the authority of the commissioners court and, if so, (2) whether the action usurps or unreasonably interferes with the performance of the elected official's constitutional or statutory duties.

A commissioners court must restrict the amount of time that an employee may contribute to and withdraw from a county sick leave pool as provided in chapter 157, subchapter E of the Local Government Code.

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

TRD-202602688

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Office of the Attorney General

Filed: June 30, 2026

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