

THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

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-0444

The Honorable Paul Bettencourt

Chair, Senate Committee on Local Government

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a tax rate increase election under Tax Code section 26.07 authorizes a municipality to "earmark" use of a voter-approved increase in its Maintenance and Operation property tax revenue for purposes other than maintenance or operations; and if not, may an increase in a municipality's Maintenance and Operation property tax be transferred to a local government corporation (created pursuant to Transportation Code chapter 431, subchapter D) to be used for debt service on debt issued by the local government corporation (RQ-0508-KP)

SUMMARY

A truth-in-taxation provision, Texas Tax Code section 26.07 requires a municipality to hold an automatic election if it seeks to increase its tax

rates above a specified amount. It does not authorize a municipality to "earmark" use of a voter-approved increase in its maintenance and operation property tax revenue for debt service.

A court would likely conclude that an agreement wherein a municipality binds itself to transfer in perpetuity an increase in its maintenance and operations property tax and is not subject to an annual appropriation and is prohibited by article XI, section 5 as a pecuniary obligation imposed by contract with no right to terminate at the end of each budget period.

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

TRD-202301897

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: May 23, 2023

