



Office of

**MICHEAL E. JIMERSON**

COUNTY & DISTRICT ATTORNEY

Rusk County Courthouse

115 N. Main • Suite 302

Henderson, Texas 75652

TELEPHONE: 903-657-2265

FAX: 903-657-0329

## Memorandum of Law Regarding Budget Process

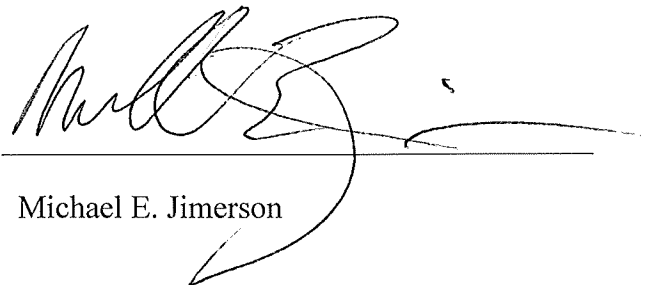
Last year despite more resources than ever received, county wide budget complaints and questionable practices took this Office away from its primary duties at a time when its own lawyers had to be replaced. Within this office there were higher allocations though the money couldn't be utilized because of bureaucratic malfeasance resulting in long term employees feeling unappreciated consequently forcing them to leave despite their love for the county. This Office is determined not to face the same dilemma county wide nor interoffice again. To that end we have researched the primary laws governing the issues from the macro to the micro.

1. **Chapter 111 of the Local Government Code authorizes and limits the budgeting process of counties.** A notation informing the reader one individual or department is drawing from multiple county line items would accomplish transparency.
2. **TX Government Code Section 41.106 Compensation (a) *A prosecuting attorney shall fix the salaries of assistant prosecuting attorneys, investigators, secretaries, and other office personnel subject to the approval of the commissioners court of the county or the counties composing the district.*** Such demonstrates that necessarily someone having run a law

office for thirty years might have greater insight into how to manage one akin to the recommendation of the district court over the auditor office.

3. ***Texas Attorney General Opinion Tex. Op. Atty Gen. No. JM-428 citing JM-70 In our opinion funds received by a district attorney pursuant to the professional prosecutor's act may be used in his sole discretion for the purposes authorized under the statute and are not subject to control by the commissioners court.*** Savings of the salary cost as well as retirement matching and FICA has led counties to engage in the prohibited practice but it will end.
4. ***Texas Code of Criminal Procedure 59.06(d) ...A Commissioners Court or governing body of a municipality may not use the existence of an award to offset or decrease total salaries, expenses, and allowances that the agency or the attorney receives from the commissioners court or governing body at or after the time the proceeds are awarded.*** Savings of the salary cost as well as retirement matching and FICA has led counties to engage in the prohibited practice but it will end.
5. A law passed this session, SB22 allocates funds to increase law enforcement including assistant district attorney salaries and expressly prohibits the practice of forcing department heads to use these funds to subsidize salaries.

June 23, 2023



Michael E. Jimerson