

It Came from Article 5 of the Texas Constitution

County and Commissioners
Court Authority

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Limited Nature of County Authority

It's What You Ain't Got that Counts

- You can't fight city hall
- Counties = subdivisions of state
- Acts through commissioners court
- Beware of peer pressure sales pitches

No Commissioner Is an Island

- Court = 4 + 1
- Acts as body, speaks through minutes
 - No individual power
 - Count to three



Speaking Loudly, Carrying a Big Pen

Budgetary and Spending Authority



- Commissioners court = “Simon”
 - Contract
 - Set budget
- It’s gotta be statutory

As if we weren't having
enough fun already ...

I'm a Commissioner and You're Not

Big fun in the big city ...

Once commissioners set the budget, what limit is there on how the money is spent?

- A. Spending must accord with the commissioners court's "legislative intent" as gleaned during the formulation process.
- B. Spending must be approved by the county judge.
- C. Spending must be in strict compliance with the finalized budget (subject to proper budget amendments).
- D. All spending must be individually screened by the commissioners court to ensure it will promote county purposes, such as would be the case with the commissioners' 2-week factfinding mission to examine county government in the Bahamas.

TEX. LOC. GOV'T CODE ANN. §§ 111.010(b), .041(a), .070(b)

When Money Talks, People Listen

Spending as Regulatory Power

- Generally sole authority
- Strict compliance with budget
- Can court:
 - Spend
 - “Provide”

Isn't it Better to Give than Receive?

Tex. Const. art. III, § 52(a)

■ Cannot

- Lend credit
- Grant in aid

■ No gratuitous payments

– Statute requiring payment must:

- Serve legitimate public purpose
- Afford clear public benefit in return

1. Predominant purpose = public
2. Retention of control
3. Return benefit

■ *Tex. Mun. League v. Tex. Workers' Comp.*

Comm'n, 74 S.W.3d 377 (Tex. 2002)

Dave Ramsey Wrote the Constitution?

Tex. Const. art. III, § 53; art. XI, § 7

■ Article 3, § 53

- No “extra compensation”
- Bonuses are bad

■ Article 11, § 7

- No debt without
 - Sinking fund
 - Dedication

- Current revenue, “funding out” clause

County may terminate this agreement, without penalty, at the end of any fiscal year or county budgetary period within the term for performance of this agreement, based on the unavailability, inadequacy or uncertainty of future funding for payment obligations of the County under this agreement.

Roads to Nowhere

County Roads



- General control over county roads
 - Construct
 - Maintain
 - Regulate
- State trumps county
- No statute = no authority



Building the Perfect Beast

County Buildings and Facilities

- Commissioners court regulates:
 - Courthouse
 - County buildings
 - Use
 - Smoking
 - Location
- Acquisition



Just when you
thought it couldn't
get any lamer ...

I'm a Commissioner and You're Not

For entertainment purposes
only; please, no wagering.

May a commissioners court spend county money on a system for supplying natural gas to county buildings?

- A. No
- B. Only through a state-negotiated contract approved by the Railroad Commission
- C. Yes
- D. Spend money? What do you think these meetings produce in the first place?

Show Me the Money

Some Further Spending Authority of Note

- Utilities
- Roads & Transportation
- Fire & Safety
- Health Care
- Trash
- Housing
- Venues

Who Says So? The County Says So.

Conventional Regulatory Authority



■ Nuisance, Solid Waste

- Order
- Abate
- Dump
- Licensing
- Ban
- Contract
- Charge fee
- Keep it to yourself

The Roof, The Roof, The Roof Is on Fire.

Disasters, Fire & Fireworks



- County Judge declaration
 - Activates EMP
 - Shelters
- Fire code
- Burn ban
- Fireworks regulation

Ooohh, That Smell

Sewage

- Regulate for:
 - Location
 - Design
 - Construction
 - Installation
 - Functioning
- Health & Safety Code ch. 366
- Look, tell, charge



I hear the snoring in
the back row ...

I'm a Commissioner and You're Not

Your cell phone can't save
you from this. Stop
looking at it.

Of the following, which is **NOT** a dangerous wild animal that may be regulated by the county?

- A. Serval
- B. Caracal
- C. Camel
- D. Baboon (regardless of elective office held by baboon)



Others include: lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, hyena, bear, coyote, jackal (but not a dingo), chimpanzee, orangutan, gorilla or any hybrid of those animals. See TEX. HEALTH & SAFETY CODE ANN. § 822.101(4)

In Between the Bright Lights and the Far Unlit Unknown

Subdivisions and Real Property Usage



- Plat filed
- Enforce regulations:
 - Road & drainage
 - Classification
 - Documents
 - Water certification
 - Minimum trailer park infrastructure
 - Bond

It's Floodin' Down in Texas

Utilities, Water Regulation and Water Use



- Gas lines around right-of way
- Trash affecting water
- Civil enforcement
- Floodplain management
- Water safety regulations

S.O.B.s

- Who's an S.O.B.?
- License, location
- Inspection
- Injunction, class A misdemeanor charges



One last chance to
get your kicks ...

I'm a Commissioner and You're Not

This one counts ... somehow

Fred Sanford moves into an unincorporated area of the county. Aunt Esther calls to complain. What can the county do about the problem?

- A. Call in the bulldozers from Road & Bridge
- B. Tell her to move into the city where they have code enforcement officers
- C. Hold a public hearing and adopt a resolution requiring licensing of junkyards and automotive wrecking or salvage yards
- D. Tell her he's old and that he'll be going to "join Elizabeth" before long, so be patient

Questions for my crack legal
research department?



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