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UT LAW SCHOOL LAW CONFERENCE – FEBRUARY 22, 2018

ATTORNEY GENERAL UPDATE: 2017 OPINION OVERVIEW

Presented by:
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Homestead Exemptions (KP-0144)

- Issue: Whether the Commissioner should consider a district's abolishment or reduction of local option homestead exemptions (LOHE) in calculating additional state aid for tax reduction (ASATR), where the abolishment/reduction was done after the Legislature's 2015 bill prohibiting such action.
- Background: In 2015, the Texas Legislature adopted two measures that, taken together, would increase the state homestead exemption to $25,000 and prohibit school districts from repealing or reducing previously adopted LOHEs.

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- The result of the 2015 legislation was that the total homestead exemption in districts that had adopted a LOHE would be $25,000 ***plus*** the existing LOHE.
- An increase to the state homestead exemption required a constitutional amendment, so the corresponding legislation did not take effect until Texas voters approved the constitutional amendment.
- In the meantime, districts rushed to reduce or repeal their LOHEs before the legislation took effect.



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- In the midst of this, the AG issued opinion KP-0072, declaring that the law applied retroactively and therefore rendered ineffective a repeal or reduction of a LOHE made in 2015 prior to the law's effective date. At least one property owner filed a lawsuit against her school district. Ken Paxton intervened on behalf of the State of Texas. The lawsuit is ongoing.
- In 2017 the Commissioner asked the AG how to calculate ASATR for those districts who repealed their LOHE after the 2015 legislation.



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- Conclusion: A district's ASATR funding will not be adjusted to reflect a prohibited reduction/repeal of an LOHE. ASATR should be calculated as if LOHE still in effect.
- Rationale: An ASATR adjustment is appropriate upon a repeal or reduction in the LOHE; however, any such repeal or reduction after the 2015 legislation is clearly prohibited by the Tax Code. To allow adjustments based on prohibited changes to LOHE would "needlessly negate the meaning of Tax Code subsection 11.13(n-1) within the school finance scheme."

International Energy Conservation Code (KP-0148)

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- Issue: Whether the International Energy Conservation Code applies to new school district building construction projects.
- Background: The 2015 IECC contains requirements for the construction of energy-efficient buildings. Some of these requirements include:
  - Opaque doors
  - A minimum skylight area
  - Recessed lighting

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