



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**  
~~XXXXXXXXXXXXXXXXXX~~  
**ATTORNEY GENERAL**

**AUSTIN 11, TEXAS**

Modified by 0-5292

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. 0-1126

Re: May the Texas State Park Board  
delegate to its secretary the  
right to approve claims against  
the state appropriations for such  
board.

We have your letter of July 12, 1939, in which you state:

"I will thank you to advise this department whether Texas  
State Parks Board may delegate to its secretary the right  
to approve claims against the state appropriations for  
such board."

Article 6067, Revised Statutes, provides for the creation of a State  
Parks Board. Article 6070a provides, among other things, that:

"The Board may make such rules and regulations for  
carrying out of this act and the laws of this state  
relative to state parks, as it may deem necessary not  
in conflict with law."

The statutes creating the State Parks Board, and defining its duties and  
powers are very meager.

However, the Waco Court of Civil Appeals, in State vs. Brannan, 111 S. W.  
(2d) 347, says:

"The State Parks Board is not an independent corporation or  
institution operated for financial gain, but is an agency  
of the State authorized to and charged with the responsibility  
of acquiring and maintaining a system of public parks for  
the benefit of the people generally, for the benevolent  
purpose of promoting the health, happiness, and general  
welfare of its citizens."

Article 4344, Revised Statutes, Subdivision 4, imposes on the Comptroller the duty to "require all accounts presented to him for settlement not otherwise provided for by law to be made on forms prescribed by him, all such accounts to be verified by affidavit as to their correctness, and he may administer the oath himself in any case in which he may deem it necessary."

Article 4355, Revised Statutes, as amended by the Forty-second Legislature, among other things, provides:

"All claims and accounts against the State shall be submitted on forms prescribed by the Comptroller in duplicate, when required by him, except claims for pensions, and shall be so prepared as to provide for the entering thereon, for the use of the Comptroller's Department, as well as other appropriate matters, the following:

"1. Signature of the head of the department or other person responsible for incurring the expenditures."

From the provisions of the last statute quoted, it appears that the Legislature has required that the Comptroller must have the signature of the head of the department, or other person incurring the expenditure.

We, therefore, answer your question in the negative.

Since the statutes give the State Parks Board the power to prescribe rules and regulations not inconsistent with the law, it is suggested that the Parks Board may provide rules and regulations whereby the approval of the claim may be made by the Chairman, Vice-Chairman, or some other member of the Board, and if such is done we think you would be authorized to accept such approval. However, in view of the mandatory character of Article 4355, as amended, we are of the opinion that the approval of these claims may not be delegated to the executive secretary, or a non-member, but that such discretionary action must be taken by some member of the Board under the rules and regulations prescribed by the Board.

Yours very truly

APPROVED JUL 22, 1939  
s/ W. F. Moore  
FIRST ASSISTANT  
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS  
s/ Albert S. Rollins

APPROVED OPINION COMMITTEE  
BY T. P. R.  
CHAIRMAN

By  
Albert S. Rollins  
Assistant

ASR:PG/law