



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

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

Dear Mr. Sheppard:

Opinion No. 0-4503

Re: Construction of S. B. No. 423,
the Departmental Appropriation
Bill of the 47th Legislature,
with respect to the employment
of husband and wife by the
State.

We have your letter of March 30, 1942, asking for
an opinion from this Department, as follows, to-wit:

"Section 2, subsection 21, paragraph b, of
Senate Bill No. 423, known as the Departmental
Appropriation Bill of the Forty-seventh Legisla-
ture, reads as follows:

"It is further provided that the
foregoing provisions restricting em-
ployment of both husband and wife shall
not apply to any persons who were em-
ployed and receiving compensation from
the state at any time during the month
of January, 1941."

"This department now submits the following
fact situation: A husband and wife had been for
some time prior to January, 1941, working for
different state departments, but during January,
1941, the wife was not employed by any state de-
partment and has not been employed by any state
department up until the present time. The hus-
band was employed by a state department during
the month of January, 1941, had been employed for
a number of years prior thereto and has been regu-

larly and continuously employed by the same state department since January, 1941. The wife is now offered employment by a different state department than that in which her husband is employed and desires to accept the offered employment.

"Would the acceptance of this offer of employment by the wife in this instance conflict with the rider to the General Appropriation Bill covering the restriction with reference to the employment of husband and wife by the state, or does the wife come within the exemption above quoted?"

Your question should be answered in the negative. The restriction of the rider has no application to the situation outlined by you. Our opinion No. 0-3785, rendered July 28, 1941, addressed to you, decides the precise question, as follows:

"We are further of the opinion that since the wife is within the proviso, and the prohibition is bilateral, the rider can not be applied to the husband. To do so would put the department heads or the husband and wife to their election as to which should be retained in the State's employ, and this would be to apply the Act to the exempted person in violation of the terms of the proviso."

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Ocie Spear
Assistant

OS-MR-DDT

Approved Apr 13, 1942
Grover Sellers
First Assistant Attorney General

Approved Opinion Committee
By B. W. B. Chairman

O. K. G.W.B.