OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

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

Dear Mr. Sheppard: Opinion No. O-5687

Re: Appropriation for Bureau of Labor Statistics from "Employment Agency Fund."

You request an opinion of this Department on the question whether Items 16, 17, 18 and 19 of the appropriation to the Bureau of Labor Statistics made by Senate Bill 332, 48th Legislature, are payable out of the General Revenue Fund.

The appropriation to the Bureau of Labor Statistics provides in part:

"(Out of Employment Agency Fund)

"16. Supervisor.....	$ 2,100.00	$ 2,100.00
"17. Assistant Supervisor.....	1,500.00	1,500.00
"18. Traveling Expense.....	500.00	500.00
"19. Stationery, printing, postage, office supplies, telephone, telegraph and contingent.....	500.00	500.00

"Subject to the limitations set forth in the provisions appearing at the end of this Act, all employment agencies license fees, together with any unexpended balance of such fees remaining on hand at the end of the fiscal year, are hereby appropriated for the purpose of supervising employment agencies."

Section 4 of House Bill 264, 48th Legislature, directs:

> "On September 1, 1943, all moneys remaining in such special fund (Employment Agency Fund) and all moneys thereafter received by the Commissioner from license fees under this Act shall be paid into and become a part of the General Revenue Fund."

In our opinion No. O-5136, we called attention to the legislative practice, appearing in previous appropriation bills, to measure the Labor Commissioner's authority to draw against certain appropriations from the General Fund by the yardstick of the amount of fees he deposited to the credit of that Fund. The provisions of the current appropriation evidence a continuance of that practice.

Your attention is directed specifically to the quoted rider. This rider appropriates, for each fiscal year, from the General Fund an amount equivalent to the amount of license fees collected and deposited to the credit of the General Fund under the provisions of House Bill 264 during the fiscal year, plus an amount equivalent to that amount which would remain after deducting at the end of the preceding fiscal year all expenditures from the General Fund for supervising employment agencies from the total fees deposited to the credit of the General Fund. This appropriation is "for the purpose of supervising employment agencies." It is not, as are the items listed above it, limited to an amount equivalent to part of the fees, but appropriates an amount equivalent to all the fees. Yet the items embrace every expenditure that might be made "for the purpose of supervising employment agencies." There is, then, a conflict between the rider and the itemizations which cannot be reconciled. In such case, the rider, being last in point of position, must be regarded as the last expression of the legislative will, and supersedes the itemization except in the following respect: Items 16 and 17 control and fix the maximum salaries which can be paid from the appropriation provided in the rider to the Supervisor and Assistant Supervisor. (See Senate Bill 363, Acts 48th Legislature).

Trusting that the foregoing satisfactorily answers your question, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By R. W. Fairchild

R. W. Fairchild
Assistant

APPROVED SEP 8, 1943

RWF-MR

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN