



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Bert Ford, Administrator
Texas Liquor Control Board
Austin, Texas

Dear Mr. Ford:

Opinion No. 0-5737

Re: Effect of rider to S. B.
332, 48th Legislature, on
power of Governor to ap-
prove deficiency for Texas
Liquor Control Board.

Your letter of December 2d submits the question whether the rider appended to the appropriation for the Liquor Control Board in Senate Bill 332, 48th Legislature affects the power of the Governor, under Article 4351, Revised Civil Statutes, to approve deficiency expenditures by the Board during the current biennium.

The rider to which you refer is as follows:

"The above itemized appropriations are the sole and only appropriations made to the Texas Liquor Control Board and such are to be paid first out of the Confiscated Liquor Fund before any other funds whatsoever are used to pay such appropriations. If this be not sufficient to pay the total appropriations itemized above, then and only in that event and only to the extent that the Confiscated Liquor Fund is not sufficient, the remainder of the above itemized appropriations shall be paid out of the funds collected from the sale of distilled spirits, wine and beer stamps in the proportions that the total revenues received therefrom bear to one another. Under no circumstances shall any money be appropriated from any fund for the administration of this act except as itemized above."

Article 4351 is a general law. It is designed to provide a means whereby agencies of the State Government whose appropriations may become exhausted prior to a meeting of the Legislature may bind the State for the payment of the reasonable expenses necessary to be incurred by the agency in order that the functions devolved by law upon it may be discharged during the period following exhaustion of its appropriations and until the next meeting of the Legislature. Establishing as it does such a wholesome public policy, a purpose to suspend, repeal or amend Article 4351 is not to be presumed, nor should language which may reasonably be harmonized with such policy be construed to embody an intent to suspend it in whole or in part.

If it was the intention of the Legislature to deny to the Governor the power during the current biennium to approve deficiency expenditures by the Liquor Control Board, under the provisions of Article 4351, apt language was not used to express that intent. Deficiency allowances under Article 4351 are not appropriations, hence the first sentence of the rider does not affect the power granted under that Article. The language of the second sentence of the rider prohibits the appropriation of money "from any fund for the administration of this Act . . ." The words "this Act" refer to the Act in which such words appear, to-wit, Senate Bill 332, for there is no previous reference in the rider to any other enactment. The rider, then, does not prohibit appropriations necessary to administer the provisions of Article 4351 in accordance with its terms.

We construe the last sentence of the rider as prohibiting the use of any fund to pay the appropriations made by Senate Bill 332 to the Texas Liquor Control Board except as specified in the first two sentences of the rider. We therefore advise that the rider does not in any wise affect the power conferred upon the Governor by Article 4351.

Very truly yours

APPROVED OPINION
COMMITTEE BY BWB
CHAIRMAN

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild
Assistant

RWF:MR
APPROVED DEO, 1943
GROVER SELLERS
FIRST ASSISTANT ATTORNEY GENERAL