



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

May 25, 1953

Hon. Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Letter Opinion No. MS-42.

Re: Authority of the Board
of Hairdressers and
Cosmetologists under
House Bill No. 79 to
exercise more control
over its funds than
would be authorized
by the General Approp-
riation Bill.

Dear Sir:

You have asked in reference to House Bill No. 79 "if in the provisions dealing with the appropriation and disposition of funds, this legislation entitled the Board of Hairdressers and Cosmetologists to anything more than is authorized by the General Appropriation Bill."

It is our opinion that House Bill No. 79 does not entitle the Board to anything more than is authorized and appropriated in the current appropriation act (Acts 52nd Leg., 1951, ch. 499), or in House Bill No. 111 of the Fifty-third Legislature.

From a study of the act as a whole, especially Section 1 (e) and Section 13, we are convinced that all revenues derived under the provisions of this act must continue to be paid into the State Treasury and, consequently, are subject to Section 6, Article VIII of the Texas Constitution which requires appropriation by the Legislature before any such funds may be paid out of the Treasury. Pickle v. Finley, 91 Tex. 484, 44 S.W. 480 (1898). It is true that the language of this act is slightly ambiguous in this regard, but Section 13 continues the use of the terms "into the State Treasury," "are hereby appropriated," and "to be expended under the direction of the Legislature as may be provided by law." The use of this language

Hon. Allan Shivers, page 2 (MS-42)

supports the conclusion stated above, and in view of the fact that the revenues involved are clearly public funds of the State (rather than private, Federal, or other funds), we are strongly inclined to construe all ambiguities in favor of a requirement that the funds be deposited in the State Treasury. Att'y Gen. Op. MS-13, page 3, note 3 (1953).

Since House Bill No. 79 contains no appropriating language which supersedes the appropriation to the Board in House Bill No. 111, it is manifest that House Bill No. 111 will control expenditure of funds by the Board between September 1, 1953 and August 31, 1955. As to expenditures by the Board between the effective date of House Bill No. 79 and September 1, 1953, Section 13 (d) leaves some doubt as to whether the Legislature intended that the Board's expenditures be limited by the provisions of the current act or the provisions of Chapter 378, Acts of the Forty-ninth Legislature (1945), which are less generous than those of the current act. It is our opinion that the appropriation laws in force "at the effective date of this Act," namely, the provisions of the current appropriation act, were intended to control.

Your attention is called to the fact that House Bill No. 79 contains a number of limitations on expenditures by the Board which restrict and may restrict expenditures that might otherwise be larger under the appropriations acts. For example, Section 1 (f) places special limitations on travel expenses of Board members attending conventions or meetings of beauty culturists, and Section 9 (b) appears to restrict expenditure of the amount of salaries, compensation or expenses appropriated for the Board to the figures specified for like service in the appropriation to the Comptroller's Department.

Yours very truly,

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By

Phillip Robinson
Assistant

PR:wb:lm