



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON  
ATTORNEY GENERAL**

July 30, 1959

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Austin, Texas

Opinion No. WW-676

Re: Authority of the Comptroller  
to pay accounts for salaries,  
office rent, etc. of the  
Texas Industrial Commission  
incurred between May 31, 1959  
and June 22, 1959.

Dear Mr. Calvert:

Your request for our opinion relating to the captioned matter reads  
as follows:

"The 55th Legislature in Senate Bill 484 created a Texas Industrial Commission Special Fund in the State Treasury and Appropriated the money placed in this fund for the use of the Commission. This appropriation expired on May 30, 1959.

"The 56th Legislature, first called session, in Senate Bill No. 10 has appropriated the money now in the fund. This bill was signed by the Governor on June 22, 1959.

"I have now been presented with accounts for salaries, office rent, and etc., which was incurred between May 31, and June 22, a time for which no Appropriation of the fund was in existence.

"Please advise your opinion as to the payment of the accounts incurred during the period of time for which no Appropriation was available?"

Section 56 of Article XVI Texas Constitution was amended at the General Election in 1958 so as to read as follows:

"The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial, educational, marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having natural circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; . . ."

The 55th Legislature enacted Senate Bill 484, Chapter 319, which is codified as Article 5190 $\frac{1}{2}$ , Vernon's Civil Statutes, which provides:

"In addition to its other duties, the State Industrial Commission is hereby authorized to plan, organize and operate a program for attracting and locating new industries in the State of Texas; provided, however, that no state funds shall be used for this purpose. The Commission may accept contributions for such purpose, all of which shall be deposited in the State Treasury in a special fund to be known as the 'State Industrial Commission Fund,' and such sums are hereby appropriated to the Commission for the purposes of this article."

The appropriation contained in Article 5190 $\frac{1}{2}$  supra, expired May 30, 1959.

Section 1 of Senate Bill 10, was approved by the Governor on June 22, 1959 and states:

"Section 1. There is hereby appropriated to the Texas Industrial Commission out of the Special Revenue Fund Created by Senate Bill No. 484, Chapter 319, Acts of the 55th Legislature, Regular Session, further known as the Texas Industrial Commission Special Fund, the unexpended and unobligated balance of the appropriation necessary to supplement the provisions for appropriation made for the said Texas Industrial Commission by the 55th Legislature, Regular Session. Said appropriation shall be for the remainder of the present fiscal year beginning May 30, 1959, and ending August 31, 1959."

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The only constitutional provision that bears upon your question is Section 44 of Article III of the Texas Constitution which provides:

"Sec. 44. The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into, for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State, unless authorized by pre-existing law."

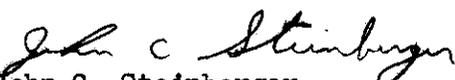
It is our opinion that Section 56 of Article XVI supra, together with the enabling act, Article 5190 $\frac{1}{2}$ , constitutes pre-existing law, which would authorize you to pay these accounts, if in fact the accounts for salaries, office rent, etc., were incurred by the Texas Industrial Commission in planning, organizing or operating a program for attracting and locating new industries in the State of Texas. We are enclosing Attorney General's Opinion V-113, which fully discusses the legal principles involved and which is in full accord with this opinion.

#### S U M M A R Y

- 、 The accounts for salaries, office rent, etc., incurred by the Texas Industrial Commission during the period from May 30, 1959 through June 22, 1959 can be paid by the Comptroller by virtue of the appropriation contained in Senate Bill No. 10 if such expenses were incurred in planning, organizing or operating a program for attracting and locating new industries in the State of Texas.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
John C. Steinberger  
Assistant Attorney General

JCS:me

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APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert.