



**THE ATTORNEY GENERAL  
OF TEXAS**

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ATTORNEY GENERAL**

**AUSTIN, TEXAS 78711**

February 28, 1967

Honorable John Connally  
Governor of the State of Texas  
Office, Capitol Building  
Austin, Texas

Opinion No. M- 31

Re: Construction of House  
Bill 87, Acts of the  
60th Legislature, Reg-  
ular Session, 1967.

Dear Governor Connally:

Your request on the above subject asks the following questions concerning the expenditures of monies under the provisions of Section 4 of House Bill 87, Acts of the 60th Legislature, Regular Session, 1967:

"(1) What is the latest date on which money appropriated therein for the Texas exhibit at HemisFair 1968 can be committed?"

"(2) Can such money appropriated be used for operating expenses of the Institute of Texan Cultures for the 1968-69 biennium?"

House Bill 87 passed the House of Representatives on January 24, 1967, by the following votes: yeas - 121; nays - 23; passed the Senate on February 13, 1967, by the following votes: yeas - 21; nays - 7; and one paired and was approved by the Governor on February 20, 1967.

Since House Bill 87 was passed by the Legislature by a record vote of two-thirds of all the members elected to each House the effective date of House Bill 87, Acts of the 60th Legislature is February 20, 1967. Section 4 of House Bill 87 reads as follows:

"Sec. 4. In addition to the moneys appropriated in Section 6 of Senate Bill No. 166, Chapter 443, Acts of the 59th Legislature, Regular Session, 1965, \$5,500,000 is hereby appropriated from the General Revenue Fund to the Texas Tourist Development Agency. The additional moneys appropriated in this Act and any unexpended

balance in the appropriation of Chapter 443, Acts of the 59th Legislature, Regular Session, 1965, shall be used in accordance with the provisions of Chapter 443, Acts of the 59th Legislature, Regular Session, 1965."

It is noted that while appropriations made by the provisions of Sections 1, 2 and 3 of House Bill 87 were made for the fiscal year ending August 1, 1967, monies appropriated in Section 4 were not made for any particular period of time. Therefore, the appropriation is made for the entire period of time authorized by the Constitution of Texas.

Section 6 of Article VIII of the Constitution of Texas provides that no appropriation of State funds may be made for a term of more than two years. Therefore, the last date on which monies appropriated in Section 4 of House Bill 87, Acts of the 60th Legislature can be legally encumbered is February 19, 1969, the end of a two year period from the effective date of House Bill 87.

It was stated in Attorney General's Opinion M-13 (1967):

"Section 6 of Article VIII of the Constitution of Texas provides that no appropriation of State funds may be made for a term of more than two years. Therefore, generally speaking, personal services must be paid out of appropriations made for the year during which the personal services are rendered. Attorney General's Opinions O-2815 (1940) and V-1397(1952). It is clearly settled, however, that an appropriation for one year in the case of capital expenditures may legally be encumbered by contract even though the project for which it is spent will not be completed and paid for until succeeding years. Attorney General's Opinions O-2631 (1940), V-1139 (1950), V-1397 (1952), V-1535A (1952), WW-40 (1957), and C-625 (1966)."

Monies appropriated in Section 4 of House Bill 87, Acts of the 60th Legislature are required to be used in accordance with the provisions of Chapter 443, Acts of the 59th Legislature, Regular Session, 1965. Chapter 443, Acts of the 59th Legislature, 1965, is an Act providing for a permanent structure at HemisFair, 1968, and the Institute of Texan Cultures is the

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official designation of the property owned by the State of Texas pursuant to the provisions of Chapter 443, Acts of the 59th Legislature, Regular Session, 1965, located in Bexar County, Texas, on the ground known as "HemisFair, 1968." Section 6 of Chapter 443, Acts of the 59th Legislature, Regular Session, 1965, reads as follows:

"To carry out the purposes of the Act, the following appropriation is hereby made:

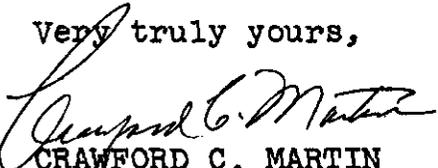
"From the General Revenue Fund to the Texas Tourist Development Agency, for a permanent building of approximately 115,000 square feet; for grading, clearing, paving, retaining walls, parking, underground facilities, landscaping, lighting, special effects, and other necessary expenses including planning for the exhibits: \$4,500,000." (Emphasis added)

In answer to your second question, you are advised that the monies appropriated in Section 4 of House Bill 87, Acts of the 60th Legislature may be used for operating expenses of the property owned by the State of Texas known as the Institute of Texan Cultures for the two year period ending February 19, 1969.

#### S U M M A R Y

Monies expended pursuant to Section 4 of House Bill 87 cannot be legally encumbered after February 19, 1969. Article VIII, Section 6, Texas Constitution. Monies appropriated by the provisions of Section 4, House Bill 87, Acts of the 60th Legislature, Regular Session, 1967, may be expended for a permanent building and grounds known as the Institute of Texan Cultures including all operating expenses connected therewith.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by John Reeves  
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APPROVED:  
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