



**THE ATTORNEY GENERAL  
OF TEXAS**

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**AUSTIN, TEXAS 78711**

July 20, 1971

Honorable James H. Havey  
Director, International Trade  
Texas Industrial Commission  
Box 12728, Capitol Station  
Austin, Texas 78711

Opinion No. M-909

Re: Whether the International  
Trade Division of the  
Texas Industrial Commission  
may maintain an employee in  
the country of Mexico, and  
a related question.

Dear Mr. Havey:

In your recent letter requesting an opinion from this office, you advised us that the International Trade Division of the Texas Industrial Commission is planning on opening an extension office in Mexico City, Mexico, D.F. and that funding for this office has been approved and is contained in Senate Bill No. 11, Regular Session as amended by Senate Bill No. 7, First Called Session of the Sixty-Second Legislature. In this regard you ask whether the State of Texas can legally pay for services of an employee who is working in and consequently residing in Mexico.

The Texas Industrial Commission was established by the provisions of Article 5183, Vernon's Civil Statutes. Certain duties of the Commission are prescribed by the subsections of Section 4, Article 6144(e), Vernon's Civil Statutes. Those provisions most pertinent to our discussion are quoted as follows:

"(a) Investigate, study and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Texas business, industry, agriculture, and commerce within and outside the state.

"(b) Plan and develop an effective business information service both for the assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economical facilities within the state.

". . .

"(e) Encourage and develop commerce with other states and foreign countries."

Line Item 14 of the current legislative appropriation for the Industrial Commission, which is found in Section 1 of Article III of Senate Bill No. 11, Regular Session, as amended by Senate Bill No. 7, First Called Session, Acts 62nd Legislature, 1971 (General Appropriation Act for the biennium ending August 31, 1973) provides as follows:

For the years ending  
August 31, 1972      August 31, 1973

"To provide from the General Revenue Fund for international trade projects including but not limited to foreign trade missions, overseas offices, reverse investment missions, including salaries of exempt and classified positions, professional fees and services, part-time and seasonal help, travel consumable supplies and materials, current and recurring operating expenses, capital outlay, planning grants and all other activities for which no other provisions are made.

150,000

150,000"

Article III, Section 44 of the Constitution of Texas prohibits appropriations by the Legislature unless there is in force a pre-existing law to support such appropriations. Austin National Bank v. Sheppard, 123 Tex. 272, 71 S.W.2d 242 (1934); Attorney General's Opinion No. M-729 (1970).

In a similar fact situation, Attorney General's Opinion M-729 held that the Commissioner of Agriculture has the authority to enter into a contract to pay a monthly consultation fee for the rendering of various marketing surveys and studies to an individual temporarily residing in Europe.

In view of the foregoing authorities and the circumstances presented, it is our opinion that Subsections (a), (b), and (e) of Section 4, Article 6144(e), Vernon's Civil Statutes, grants to the Industrial Commission authority to open an extension office in Mexico City, Mexico, D.F. and to pay the salaries of employees who are working and residing in Mexico.

S U M M A R Y

Subsections (a), (b) and (e) of Section 4 of Article 6144(e), Vernon's Civil Statutes, grants to the Industrial Commission authority to open an extension office in Mexico City, Mexico, D.F. and to pay the salaries of employees who are working and residing in Mexico.

Very truly yours,



CRAWFORD C. MARTIN  
Attorney General of Texas

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APPROVED:  
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