



**THE ATTORNEY GENERAL  
OF TEXAS**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

**AUSTIN, TEXAS 78711**

July 21, 1972

Hon. George W. McNeil  
State Auditor  
Sam Houston State Office Bldg.  
Austin, Texas 78711

Opinion No. M-1175

Re: Whether the Texas Credit Union Department is subject to the provisions of Article 6823a, Vernon's Civil Statutes (the Travel Regulation Act of 1959), and related question.

Dear Mr. McNeil:

Your recent letter requesting the opinion of this office concerning the referenced matter states, in part, as follows:

"In connection with our regular audit work at the Texas Credit Union Department we have observed that their current practice, with respect to the payment of a partial per diem allowance of either \$3.00 or \$5.00 to certain employees while working in the cities designated as those employees' headquarters. We are told that such partial per diem allowance is in lieu of in-town mileage, meals and other incidental travel expenses, and that the practice, with varying amounts and work areas, dates from the inception of the Department in 1969. We have also observed that employees traveling in areas outside their designated headquarter cities, but within the State, receive a per diem allowance of \$18.00 plus 10¢ per mile for the departmental use of their personally-owned automobiles.

"The views of this office, which are based in part on the conclusions expressed in your Opinion M-978, October 20, 1971, and the practices of the Credit Union Department differ as to whether or not sufficient authority now exists for the use of departmental

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funds in this manner. We desire the opinion of your office with respect thereto.

"More specifically, is the Texas Credit Union Department subject to Article 6823a, of Vernon's Civil Statutes, referred to as the 'Travel Regulations Act of 1959', even though its funds are maintained apart from the State Treasury?

"If the answer to the foregoing question is affirmative, is the Texas Credit Union Department subject to the mileage and per diem rates specified in the General Provisions of the current General Appropriations Act?"

The Texas Credit Union Department was established in 1969 by Article 2461-38, Vernon's Civil Statutes.\* The Texas Credit Union Commission was simultaneously created. Article 2461-38 transferred the jurisdiction, authority, powers, and duties theretofore conferred on the Banking Commission, in relation to credit unions, to the Credit Union Commission and Department.

Articles 2461-44 and 2461-47 provide for the compensation and expenses of the Credit Union Department. Section (f) of Article 2461-47 provides, in pertinent part, as follows:

" . . . Notwithstanding anything to the contrary contained in any other law of this state, all fees, penalties, charges, and revenues collected by the Credit Union Department from every source whatsoever shall be retained and held by said department, and no part of such fees, penalties, charges, and revenues shall ever be paid into the General Revenue Fund of this state. All expenses incurred by the Credit Union Department shall be paid only from such fees, penalties, charges, and revenues, and no such expense shall ever be a charge against the funds of this state. . . ."  
(Emphasis added).

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\* All reference to Articles are to Vernon's Civil Statutes.

It is apparent that none of the travel expenses of the employees of the Credit Union Department are paid from the State Treasury pursuant to the provisions of any General Appropriations Act.

Section 2 of Article 6823a (the Travel Regulations Act of 1959), states, in part, as follows:

"The provisions of this Act shall apply to all officers, heads of state agencies, and state employees. . . ." (Emphasis added).

That Act then goes on to set certain standards and criteria for the payment of travel expenses of State employees.

The gravamen of your first question is, therefore, whether Articles 2461-38, 2461-44 and 2461-47 remove the Credit Union Department from the Travel Regulations Act.

In construing Article 6823, the predecessor of the Travel Regulations Act, it was held in Attorney General's Opinion No. O-4628 (1942) that Article 6823 applied only to the travel expenses of agencies and departments covered by the General Appropriations Act.

Moreover, Attorney General's Opinion No. WW-1053 (1961), in construing the Travel Regulations Act, specifically held that

"Since such employees are not being reimbursed for such travel from authorized amounts in the General Appropriations Acts, and are being compensated for their travel by non-state agencies only, such compensation, from local funds, does not violate Section 8 of the Travel Regulations Act of 1959, as the Travel Regulations Act is only applicable to funds appropriated by the Legislature." (Emphasis added).

See also Attorney General's Opinions Nos. O-5589 (1943), O-6066 (1944), WW-1095 (1961), WW-1222 (1961), and WW-1262 (1962) for similar holdings.

In light of the ample precedent afforded by the foregoing Opinions of the Attorney General, and the acquiescence of

the Legislature in such construction, we hold that the travel expenses of employees of the Texas Credit Union Department are not subject to the provisions of the Travel Regulations Act, inasmuch as the expenses are in no way paid with funds appropriated in the current General Appropriations Act.

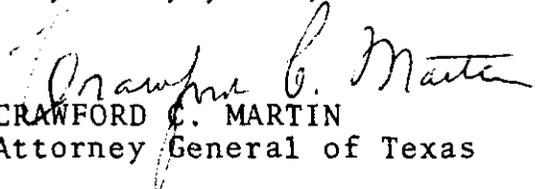
You are further advised that the travel expenses of employees of the Credit Union Department may be paid pursuant to Section (f) of Article 2461-47, as that Section is the necessary pre-existing law authorizing the payment of such expenses.

Inasmuch as your first question has been answered in the negative, it is not necessary for us to answer your second question, as same was predicated only on the basis of an affirmative answer to your first question.

S U M M A R Y

The travel expenses of employees of the Texas Credit Union Department are not subject to the provisions of the Travel Regulations Act of 1959, Article 6823a, Vernon's Civil Statutes.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

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APPROVED:  
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