



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

January 7, 1974

The Honorable Clayton T. Garrison
Executive Director
Texas Parks & Wildlife Department
John H. Reagan Building
Austin, Texas 78701

Opinion No. H- 198

Re: Entitlement of Game
Wardens to Credit toward
longevity salary increases
while serving in admini-
strative positions.

Dear Mr. Garrison:

You have asked our opinion regarding the eligibility of game wardens for longevity increases in their salaries. Your question is:

"Does a commissioned Game Warden or District Supervisor lose service time credit for longevity purposes for the period assigned to a classified position as a law enforcement administrator when later re-assigned to a Game Warden or District Supervisor position?"

The relevant law, found on page III-119 of the General Appropriation Act for the 1974-1975 fiscal years (House Bill No. 139, 63rd Leg.), provides:

"It is expressly provided that the Parks and Wildlife Department pay longevity to Commissioned Game Wardens up to and including the grade of Captain. The amounts to be paid to each individual position shall be based on the length of service in law enforcement of Game Laws within the Department, according to the following schedule:

5 years	\$10.00 per month
10 years	20.00 per month
15 years	30.00 per month
20 years	40.00 per month
25 years	50.00 per month"

You advise us that:

"[the] Department has administrative requirements for law enforcement personnel which require the assignment of Commissioned Game Wardens and District Supervisors to administrative positions. Reassignment of law enforcement administrative personnel back to duties as Game Wardens and District Supervisors may likewise occur from time to time."

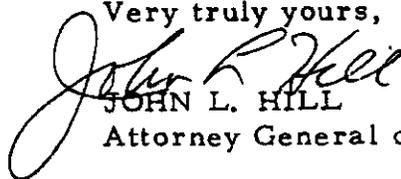
The language of the Act requires that the increases "be based on the length of service in law enforcement of Game Laws within the Department." We believe that it is necessary for a commissioned game warden to be actually engaged in enforcement of the game laws to qualify for a longevity increase under this appropriation rider. See, Attorney General Opinion M-883 (1971). Whether the administrative positions you describe actually involve law enforcement work is a fact question which this office is without authority to determine. Compare Attorney General Opinion C-140 (1963) where all relevant facts were given. Each case would depend on its particular facts.

It is our opinion that a commissioned game warden's service in an administrative position is not precluded from consideration in determining the officer's length of service for the purposes of longevity salary increases. However, each case will require a factual determination by the Commission as to whether the officer was engaged in the enforcement of the game laws while serving in the administrative position. Compare Attorney General's Opinion No. H-105 (1973).

SUMMARY

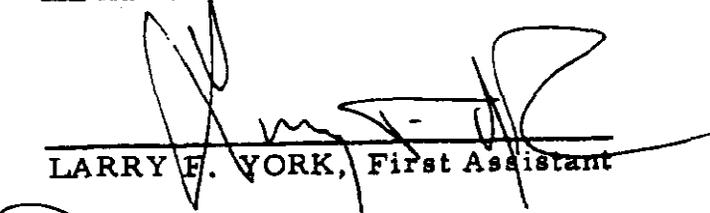
A commissioned game warden's entitlement to credit toward a longevity salary increase while serving in an administrative position will depend on a determination by the Commission that the officer was engaged in enforcing the game laws while serving as an administrator.

Very truly yours,


JOHN L. HILL

Attorney General of Texas

APPROVED:



LARRY F. YORK, First Assistant



DAVID M. KENDALL, Chairman
Opinion Committee'