



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

August 29, 1974

Mrs. Jan Ash, Executive Secretary
Texas State Board of Landscape Architects
320 Sam Houston State Office Building
Austin, Texas 78701

Opinion No. H- 387

Re: Compensation of
members of Board
of Landscape
Architects under
Art. 249c, V. T. C.S.

Dear Mrs. Ash:

Your request for our opinion stems from an apparent conflict between Art. 249c, Sec. 4(b), V. T. C. S., and an appropriation to your Board in the Appropriations Act for fiscal year 1974-1975 (Acts 1973, 63rd Leg., ch. 659, p. 1786).

Article 249c, Sec. 3, creates the Texas State Board of Landscape Architects. Section 4 prescribes the powers and duties of the Board and, in subsection (b), provides:

Each member of the board shall receive as compensation for services performed in connection with his duties as such member a sum equal to his expenses actually incurred, provided however, said expenses shall not exceed the sum of \$25 per day, exclusive of travel expense.

The Appropriations Act, under the heading "Per Diem of Board Members, 3 at \$25," allocates \$1,800 to your board. Apparently, you have interpreted this as a per diem allocation to be paid regardless of actual expenses. However, the Comptroller has refused to pay on that basis.

"Per diem" does not have a fixed meaning, and, among other things, it may be used to refer to a fixed amount allowed to compensate for expenses actually incurred. Attorney General Opinions H-307 (1974) and H-74 (1973). If there is conflict, the provisions of the Appropriations Act may not overrule general legislation. Attorney General Opinions H-351 (1974), V-1254 (1951). See also Moore v. Sheppard, 192 S. W. 2d 559 (Tex. 1946).

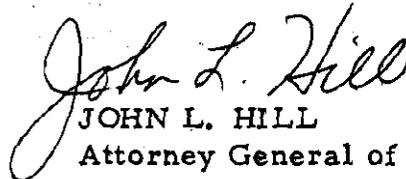
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We are of the opinion, therefore, that the amount of per diem to be recovered by members of your Board is governed by Art. 249c, Sec. 4(b), and is limited to actual expenses incurred, provided such expenses do not exceed \$25.

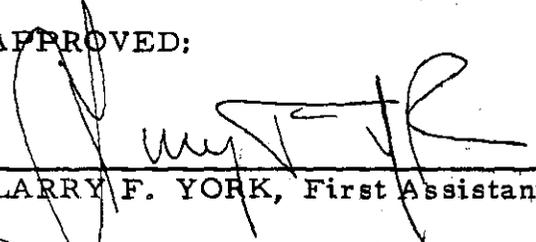
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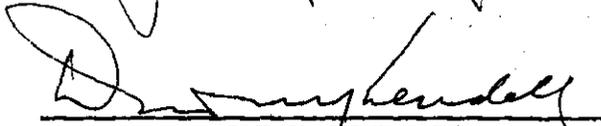
Where a statute creating an administrative board authorizes reimbursement of board members for actual expenses but not to exceed \$25 per day, a general appropriation of \$25 per diem to them does not authorize the payment of the greater sum.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee