



**THE ATTORNEY GENERAL  
OF TEXAS**

September 7, 1989

**JIM MATTON  
ATTORNEY GENERAL**

Mr. L. Richard Emerson  
Chairman  
Texas Aeronautics Commission  
P. O. Box 12607  
Austin, Texas 78711

LO-89-71

Dear Mr. Emerson:

By letter of August 18, 1989, you requested advice from this office about House Bill 94 of the 71st Legislature, first called session, which establishes the Texas Department of Aviation and transfers the functions of the Texas Aeronautics Commission to it. Section 12 of House Bill 94 states that the act becomes effective on August 1, 1989; however, the bill did not receive the two-thirds majority vote of each house necessary to authorize an effective date earlier than "ninety days after the adjournment of the session at which it was enacted." See Tex. Const. art. III, § 39. House Bill 94 will therefore become effective on October 18, 1989.

Your first question concerned the payment of operating expenses for the Texas Aeronautics Commission from September 1 through October 17, 1989. We understand that a source of funding for the commission has been found, and that you no longer need an answer to this question.

Your second question concerns section 10(c) of House Bill 94, which provides as follows:

On the effective date of this Act all records, programs, contracts, assets, and personnel of the Texas Aeronautics Commission are transferred to the Texas Department of Aviation. (Emphasis added.)

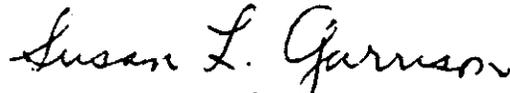
House Bill 94, § 10(c). Since section 12 of the bill states that it takes effect on August 1, 1989, you wish to know whether all the current Texas Aeronautics Commission employees will be transferred to the new Department of Aviation on October 18, 1989.

Section 12 must be read together with article III, section 39, of the Texas Constitution, which provides in part:

No law passed by the Legislature . . . shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct . . . .

Section 12 is invalid, because it is inconsistent with this constitutional provision. The constitution itself supplies an effective date for House Bill 94, which will be 90 days after the close of the first called session, or October 18, 1989. See Morris v. Calvert, 329 S.W.2d 117 (Tex. Civ. App. - Austin 1959, writ ref'd n.r.e.). Accordingly, the transfer described in section 10(c) of House Bill 94 will take place on October 18, 1989.

Yours very truly,



Susan L. Garrison  
Assistant Attorney General  
Opinion Committee

SLG/er

Ref.: ID# 7241  
RQ-1791

cc: Doug Fraser  
Energy Division

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