



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

February 14, 1939

Hon. Joseph Wearden, Chairman  
Texas Prison Board  
Victoria, Texas

Dear Sir:

Opinion No. O-258  
Re: When do the new appointees  
to the Texas Prison Board le-  
gally take office?

Your letter of January 30, 1939,  
addressed to Hon. Gerald C. Mann, Attorney  
General, has been referred to the writer  
for consideration and reply. You request  
an opinion as to when new appointees to the  
Texas Prison Board legally take office.

Your attention is directed to Arti-  
cle 6166-b, Revised Civil Statutes of Texas:

\*There is hereby created the  
Texas Prison Board, which shall be  
composed of nine members to be ap-  
pointed by the Governor with the  
advice and consent of the Senate,  
such appointments shall be made bi-  
annually, or once before February 15.  
Each member of said Board shall be  
a State officer within the meaning  
of the Constitution, and before en-  
tering upon the discharge of his  
duties shall take the constitution-  
al oath of office. The term of  
office of each member shall be six  
years, except that in making the  
first appointments the Governor

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shall appoint three members for a term of two years each, three members for terms of four years each, and three members for terms of six years each, so that the terms of three members shall expire every two years. Vacancies occurring in the Board shall be filled by appointment of the Governor for the unexpired term."

You will note that, in effect, the above quoted article states that the Governor shall make appointments of three members of the Texas Prison Board every two years, with these appointments to be made on or before February 15, and the term of office of each member to be for a period of six years.

Further, under the above article, a member of the Prison Board holds a constitutional office, and though an appointive office, the same rules of tenure will apply as to an elective office. Therefore, if a new appointee to the Texas Prison Board fails to qualify for several months after February 15, his predecessor serves several months of his tenure.

Article 16, Section 17 of the Constitution of Texas provides as follows:

"All officers within this State shall continue to perform the duties of their offices until their successor shall be duly qualified."

The term of office to be for a period of six years does not mean that each member shall serve six years from the date of

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his qualification, but means that he shall serve six years or until the qualification of his successor. The appointments are not made for six years but they are made to fill a term of six years, which expires on February 15th, even though the appointee may not have served but five and a half years or even a less period of time.

It is our opinion, and you are so advised, that new appointees to the Texas Prison Board legally take office as soon as they shall be duly qualified after February 15.

Believing this to answer your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By



Pat Coon  
Assistant

PC:ob

APPROVED:

  
ATTORNEY GENERAL OF TEXAS

