



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable A. H. Dunlap, Commissioner  
Board of Water Engineers  
Austin, Texas

Dear Mr. Dunlap:

Opinion No. 0-5356  
Re: Expiration date of appro-  
priation contained in  
House Bill No. 739, Ch.  
632, Acts of the Regular  
Session of the 47th Legis-  
lature.

We beg to acknowledge receipt of your inquiry asking the opinion of this department upon the above captioned question.

House Bill No. 739 of the Regular Session of the 47th Legislature, is an act authorizing and directing the Attorney General of Texas to make such investigation and to institute and prosecute such legal proceedings or suits or take such other action as he deems proper to protect the interest of the State of Texas in and to the waters of the Pecos River, and to compel the State of New Mexico to comply with the terms of that certain bipartite agreement therein set out.

Section 6 of the act makes an appropriation in the following words:

"There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of Thirty Thousand Dollars (\$30,000), for the purpose of carrying out the provisions of this act. Said money shall be paid out on sworn accounts approved by the Attorney General and shall be paid out of the State Treasury on warrants of the Comptroller as under General Laws."

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The Act passed the House May 26, 1941 -- yeas 93, nays 23 -- and passed the Senate, June 18, 1941 -- yeas 21, nays 4. It was approved July 23, 1941.

The Act contained the usual emergency clause but as shown by the above vote it lacked the necessary two-thirds majority in the House and therefore did not become immediately effective by reason of the emergency clause, nor at all, unless the Act is a general appropriation bill within the meaning of the Constitution. (Section 39, Article III)

In an opinion by this department, written by the late Chief Justice C. M. Cureton while he was First Assistant Attorney General it was said:

"We will first determine the meaning of the phrase, 'a general appropriation act.' An appropriation of the State funds is a setting apart from the public revenue of a certain sum of money for a specified object in such a manner that the executive officers are authorized to use that money, and no more, for that specific object. .

"The caption of this Act, as well as the first paragraph of the first section, expressly declares that one of its purposes is to appropriate funds for the payment of deficiencies which had been incurred in administering the affairs of the State Government. Another declared purpose is to provide funds for meeting emergencies during the fiscal year ending August 31, 1915. From this we must assume that one of the evils to be remedied by the statute was a liquidation of debts created under the law by reason of the failure of the last preceding appropriation bill to carry such funds for administering the affairs of the Government. Another evil to be remedied was to avoid creating further deficiencies in order that the State might operate upon a cash basis. When the various items of the bill are examined it will be found that they correspond with the declared purpose of the measure, as contained in the caption and in the first section."

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It will thus be seen following the reasons by Judge Cureton that the present bill is not a general appropriation act but on the contrary is one authorizing certain investigations, suits or proceedings, touching a definite subject matter and making an appropriation for the specific purpose of carrying out the provisions of the act -- an incident merely to the act.

This being true the Act did not go into effect until ninety days after the adjournment of the Legislature.

Ninety days after the adjournment means ninety full days intervening between the day of adjournment and the effective day which would be in this instance October 1, 1943, which day begins, of course, mid-night October 1, and the appropriation will lapse two years from that date.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Ocie Speer*  
Ocie Speer  
Assistant

OS:ff

APPROVED JUN 11, 1943

*Gerald C. Mann*

ATTORNEY GENERAL OF TEXAS

