



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Bayne Satterfield, Commissioner  
Fireman's Pension Commission  
P. O. Box 1062  
Austin, Texas

Dear Sir:

Opinion No. 0-6904  
Re: Construction of H. B. 258,  
Ch. 125, Acts 45th Legisla-  
ture, Regular Session, p.  
229, with respect to the  
basis for contributions to  
State Fireman's Disability  
and Retirement Fund, where  
member receives overtime  
pay.

Your letter of October 21st requesting an opinion from this department reads in part as follows:

"Because of the man-power shortages in the fire departments due to war conditions, some of the firemen are required to work overtime and some in the same department are not required to work overtime. The overtime is paid on an hourly basis. Should the firemen who work overtime pay into the Fund on the basis of their regular salary or should they pay into it on the basis of the salary plus the overtime?"

You were heretofore advised by this department in our Opinion No. 0-4323 as follows:

"After a consideration of the bill as a whole, the purposes of the Act and the manner of carrying out the provisions thereof, we are of the opinion that it was the intention of the Legislature to require the payments to be made on the basis of the compensation actually received by the fireman/"

Honorable Bayne Satterfield, page 2

Insofar as the facts which invoked Opinion 0-4323 were somewhat different from those contained in your later request, we have again examined the provisions of House Bill 258, Forty-fifth Legislature, 1937, commonly known as the State Fireman's Relief and Retirement Law.

We find nothing therein contained which would change our opinion as previously stated. Section 10 of this Act is quoted in our earlier opinion and provides that the deductions are to be made from the member's salary or compensation. Any overtime pay received by a fireman, by virtue of Article 1583 of the Penal Code, must be considered a part of his salary or compensation according to the well recognized definitions of those words as set out in our earlier opinion.

Your attention is also directed to this department's opinion No. 0-4787, wherein we held:

"Fireman B, who receives a salary of \$100.00 per month as a paid fireman, and in addition is permitted to live in the fire station with his family without payment of rent, should contribute to the fund upon the basis of his full compensation -- salary, plus rent -- and the local Board should determine the amount according to the fair and reasonable rental value of the quarters supplied to the fireman. This is a fact inquiry by the Board to be determined upon pertinent evidence to be heard and considered by it."

Trusting this fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Benjamin Woodall*  
Benjamin Woodall  
Assistant

By *H. T. Bob Donahue*  
H. T. Bob Donahue

HTED:DB

*Carl E. Satterfield*

