



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS

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ATTORNEY GENERAL

Honorable Clifton H. Morris, Chairman
State Board of Public Accountancy of Texas
1205 Fair Building
Fort Worth, Texas

Opinion No. 0-6066
Re: Legality of certain proposed expenditures by the State Board of Public Accountancy.

Dear Sir:

Your opinion request of June 2, 1944, reads as follows:

"At the next session of the Texas Legislature, the accounting profession of this State expects to recommend legislation affecting the profession of Public Accountancy in the State and in the interest of the public welfare. In connection with this proposed legislation the Board Members may incur some expenses which they consider necessary. Will you please advise me specifically if the following items could be considered expenses incident to the 'maintenance of the Board' (Art. 39 RCS):

"(1) Traveling expenses to Board meetings for the purpose of discussing such legislation;

"(2) Traveling expenses of individual members to Austin or other parts of the State in connection with the proposed legislation;

"(3) A legal fee to a firm of attorneys who would advise concerning the legality of the proposed legislation."

Under the provisions of Article 34 of the Revised Civil Statutes, your Board is required to meet "at least once in each year for the purpose of examining applicants for certificates, and may meet as many times during the year as may be in its discretion advisable." It is clear that the meetings above provided for are those "for the purpose of examining applicants for certificates", although other duties, connected with the lawful purpose of such Board, by necessary implication may be performed at such meetings, or at other meetings, as, for instance, the issuance of "Certified Public Accountant" certificates or degrees, revocation of such certificates, election of a chairman and secretary--treasurer of the Board, prescribing of rules, regulations and by-laws, passing of administrative orders, etc.

Said Article 34 further provides that "the board may hold any number of meetings, and at any time, without giving notice by publication of such meetings, if a meeting be called for any other purpose than the examination of applicants for certificates." We believe it reasonable

that this provision only removes the requirement of notice from all meetings for the purpose of performing an official duty other than examining applicants for certificates. In other words, it does not authorize meetings for purposes not expressly or by necessary implication, given by law.

With reference to the expenses and compensation of the members of the Board, Article 39, R.C.S., provides:

"Each member of said board shall receive from the secretary-treasurer of the board, out of the funds in the hands of the board, if there be sufficient thereof, all of his necessary railroad and hotel expenses for attending the meetings of said board; but otherwise shall serve without compensation. The secretary-treasurer shall be required to keep an account of all money received and disbursed, and shall render an annual statement to the Governor showing receipts and disbursements and the balance on hand. The balance shall remain in the treasury of the board, and all expenses in connection with the maintenance of the board shall be paid from same. No provisions of this law shall be a charge upon the common funds of this State."

We do not believe the purpose referred to in your first question is one contemplated by law for which a Board meeting may properly be held, therefore we are constrained to hold that the traveling expenses of Board members to a meeting for such purpose would not be allowable.

The statute contains no express provision for traveling expenses of the type set forth in your second question, and, as we understand your inquiry, you are asking whether or not such expenses are "expenses in connection with the maintenance of the board" within the meaning of this statute. After providing that members may be paid their traveling expenses for attendance at meetings of the Board, the statute specifically provides that otherwise they shall serve without compensation. We feel that this provision evidences a legislative intent that traveling expenses other than those specifically mentioned shall not be paid from the funds of the Board. Moreover, in speaking of expenses in connection with the maintenance of the Board, we feel that the legislature had in mind such expenses as postage, cost of stationery, telegraph and telephone expense, and those other expenses which are necessary to the operation of the Board as an organization rather than those expenses which an individual member might incur for purposes other than attendance at Board meetings. Consequently, in answer to your second question, you are respectfully advised that expenses of the type there described may not be considered expenses in connection with the maintenance of the Board within the meaning of Article 39.

With reference to your third question, the Board is nowhere expressly authorized to employ counsel. Implied authority to employ such counsel is, we feel, negated by those provisions of Article 4399 of the Revised Civil Statutes wherein it is made the duty of the Attorney General to render written advice to the heads of all State boards upon

Hon. Clifton H. Morris, page 3 (0-6066)

matters concerning their official duties. Consequently, in answer to your third question, you are respectfully advised that a legal fee of the type there described may not be considered an expense in connection with the maintenance of the Board within the meaning of Article 39.

Trusting that the foregoing fully answers your inquiries, we are

APPROVED AUG 9, 1944

/s/ Geo. P. Blackburn

ACTING ATTORNEY GENERAL OF TEXAS

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Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Robert L. Lattimore, Jr.
Robert L. Lattimore, Jr.
Assistant.

THIS OPINION
CONSIDERED AND
APPROVED IN
LIMITED
CONFERENCE

APPROVED
OPINION
COMMITTEE
BY /s/ BWB
CHAIRMAN