



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

December 4, 1947

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FIRST ASSISTANT

Hon. J. H. Rasco, Director
Livestock Sanitary Commission
2002 W. T. Waggoner Building
Fort Worth 2, T e x a s

Opinion No. V-449

Re: Payment of travel
expenses of person-
nel of the Livestock
Sanitary Commission
from funds appropriat-
ed by H. B. 19, 50th
Leg.

Dear Sir:

Your request for an opinion concerns the payment of expenses of the State Veterinarian and the Laboratory Director of the Livestock Sanitary Commission while attending a meeting of the United States Livestock Sanitary Association in Chicago from December 1 through 5 from the \$150,000.00 appropriation in H.B. 19, 50th Legislature. By letter dated November 10, 1947, this office advised Hon. Roy Loventhal, Chairman, Livestock Sanitary Commission, that the contemplated trip of Doctors Jim L. Adrian, State Veterinarian, and Donald D. Demke, Laboratory Director, to Chicago was State business, and said letter was "written in accordance with the provisions of S. B. No. 391, Sec. 2 (11), 50th Leg." (General Appropriation Bill for State Departments and Agencies).

Sections 1 and 4, the pertinent parts of H. B. 19 under consideration, are as follows:

"Section 1. It shall be the duty of the Livestock Sanitary Commission to establish quarantines against other States, territories and foreign countries and portions thereof, and against certain areas of the territory of the State or subdivisions thereof whenever, in the judgment of the Commission, such quarantines may be necessary or advisable to prevent an outbreak of Foot and

Mouth Disease in Texas, and to otherwise establish quarantines within the State of Texas in such form and manner as to said Commission may appear to be necessary or advisable, in order to prevent an outbreak of Foot and Mouth Disease, or to prevent a spread of said disease. The Livestock Sanitary Commission may in such quarantines, establish in relationship to Foot and Mouth Disease, forbid and prohibit all movement of livestock of any character or description and commodities and other goods and articles as shall in the order establishing such quarantine be specified. Notice of such quarantine, when so established, shall be given as now provided by law for other quarantines established by the Livestock Sanitary Commission. . . .

"In order that the provisions of this Act may be effectively carried out and administered and in order to prevent an outbreak of Foot and Mouth Disease within the State of Texas there is appropriated as an emergency appropriation from the General Revenue Fund of the State of Texas the sum of One Hundred and Fifty Thousand Dollars (\$150,000), which sum shall be and is made available from and after the passage of this Act to the Livestock Sanitary Commission to be used for the specific purpose of carrying out the provisions of this Act in the prevention or spread of an outbreak of Foot and Mouth Disease in this State; this appropriation to be available to the Livestock Sanitary Commission for and only for the purpose of quarantines, or such other measures that may be adopted by the Livestock Sanitary Commission for the prevention and spread of an outbreak of Foot and Mouth Disease, and, if and when, in the opinion of the Livestock Sanitary Commission there no longer remains a threat or danger of an outbreak or spread of Foot and Mouth Disease in Texas, said Commission shall so certify and the unused portion of this appropriation shall thereupon revert to the General Revenue Fund of the State. The Livestock Sanitary Commission is hereby authorized to use any or all of the money appropriated by this Act in any manner it deems necessary for the carrying out of

the provisions of this Act; in the expenditure of the funds appropriated by this Act the Livestock Sanitary Commission shall not be bound by the limitations contained in Senate Bill 317, Acts of the Regular Session of the Forty-ninth Legislature." (Emphasis supplied)

The provisions of H.B. 19 relate solely to the establishment of quarantines to prevent an outbreak of foot and mouth disease in Texas or to prevent its spread. As stated in the Act, the \$150,000 appropriation now available to the Livestock Sanitary Commission is to be used only for the purpose of quarantines or other measures adopted by the Commission to combat the outbreak of foot and mouth disease in Texas.

We believe that the Legislative intent in using the language "or such other measures" was to refer to other preventive means or methods of combating foot and mouth disease, such as quarantines, and did not encompass payment of traveling expenses of the Commission's officers and employees while attending a national meeting or convention where this disease will be a main topic of discussion.

It is true that the Act provides that the Commission is authorized to use the money "in any manner it deems necessary for the provisions of this Act," and that it shall not be bound by the provisions of the general appropriations Act of the 49th Legislature. (S.B. 317)

However, we believe the above language is limited by the specific words of the Act that the money is to be used "for and only for "(1) the purposes of quarantines" or (2) other measures adopted for the prevention and spread of the disease. Though there may be room for difference of opinion on the matter, it is our conclusion that participation in a general Livestock Sanitary Convention in Chicago, where only a portion thereof is devoted to Hoof and Mouth Disease, may not be classed as a measure adopted for the prevention and spread of Hoof and Mouth Disease. Of course it is not a quarantine.

It is further true that H.B. 19 authorizes expenditures for travel expense without the limitations of the riders of the Appropriation Bill of the 49th Legislature. We construe such provisions to relate to travel directly

associated with one of the two specifically named purposes. We do not consider a general national convention to be within these purposes.

However worthy the Commission's purposes in sending its representatives to the Chicago meeting, and however valuable their participation in the discussions there, money may not be paid from the State Treasury except in pursuance of the appropriation made by the Legislature, and with the limitations prescribed therein. The definition of the term "appropriation" involves an idea of a fund set aside for a specific purpose or use, and it is well established that public moneys may not be diverted from that specific purpose for which they were appropriated. 6 Corpus Juris Secundum, p. 123; 34 Tex. Jur. 314.

You are, therefore, advised that traveling expenses of the State Veterinarian and of the Laboratory Director of the Livestock Sanitary Commission to be incurred while attending a meeting of the United States Livestock Sanitary Association in Chicago may not be paid from the \$150,000 appropriation contained in H.B. 19, 50th Legislature, but that such travel expense should be charged to the amount provided generally for your department by the 50th Legislature in the General Appropriation Bill.

SUMMARY

Traveling expenses of the Livestock Sanitary Commission's representatives in attending a national meeting of livestock sanitary officials may not be paid from the appropriation contained in H.B. 19, 50th Legislature, (Emergency Hoof and Mouth Disease Quarantine Act) but must be charged to the regular Departmental appropriation.

Yours very truly

APPROVED:

Fagan Dickson
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By *James T. Bryan*
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JTB/mw/lh