



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

PRICE DANIEL
ATTORNEY GENERAL

April 1, 1948

FAGAN DICKSON
FIRST ASSISTANT

Hon. Geo. W. Cox, M. D.,
State Health Officer,
State Department of Health,
Austin, Texas

Opinion No. V-533

Re: The legality of paying a salary to the stenographer of the chairman of the advisory committee on certification of water and sewage works operators from Item 37 of the current Department of Health appropriation.

Dear Dr. Cox:

Reference is made to your letter of March 15, requesting the opinion of this office concerning the legality of paying a salary to the stenographer of the chairman of the advisory committee on certification of water and sewage works operators from Item 37 of the current Department of Health appropriation.

The current Departmental Appropriation Bill is Senate Bill 391, Acts, Regular Session, 50th Legislature, which makes the following appropriations to the State Board and Department of Health under the heading "Division of Water and Sewage Certification" (Tex. Sess. L. 1947, c. 400, p. 849):

- "33. Director of Certification. \$3,600.00
- 34. Field Supervisor of Certification. . \$3,000.00
- 35. Secretary. \$1,992.00
- 36. Traveling expenses of Director . . . \$2,100.00
and Field Supervisor
- 37. Stamps, stationery, printing and
other operating expenses \$ 800.00"

It is our understanding, from the information contained in your letter of March 15, that the chairman of the advisory committee on certification of water and sewage works operators is not the "Director of Certification" mentioned in the Departmental Appropriation Bill. In like manner, it is our understanding from your correspondence that the stenographer of the chairman of the advisory committee is not the "Secretary" mentioned in this Departmental Appropriation. It is our understanding that the State Department of Health has created an advisory committee composed of leading water works officials in the State to assist the "Director of Certification", and it is desired to pay a salary to the stenographer of the chairman of this advisory committee from the appropriated item entitled "Stamps, stationery, printing and other operating expenses".

We believe this question must be answered by application of the rule of statutory construction known as "ejusdem generis" to determine what is meant by the words "other operating expenses" in this item of appropriation. Ejusdem generis has been defined as follows:

"In a public statute where words particularly designating specific acts or things are followed by and associated with words of general import comprehensively designating acts or things, the latter are generally to be regarded as comprehending only matters of the same kind or class as those particularly stated".19 Corpus Juris, p. 1255.

In Casey v. State, 289 S.W. 428 (Tex. Civ. App. 1926, error ref'd), the court was considering the applicability of ejusdem generis to a statute (Article 2897, Revised Statutes of 1911, as amended by Acts 1923, c. 181, sec. 6a) which stated certain county officers could retain from the fees of their offices ". . . all the actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, traveling expenses and other necessary expense. . . ." In this connection the court stated:

"That rule is, we think applicable here. The four particulars mentioned in the statute - stationery, stamps, telephone and traveling expenses - fixed the grade and character of the office expenses which may be paid for out of the excess fees of the office. The personal service of an office assistant or stenographer of the kind employed in this instance does not belong to that grade of expenses. It may be that such assistance was necessary in this particular case, to enable the county attorney to better discharge his duties; but that fact alone does not confer the right to pay for such assistance out of the public funds. Such authority must come from some appropriate statute. . . ."

The rule of ejusdem generis has equal application in the instant case. The words "other operating expenses" in this item of appropriation must be considered in the light of the more specific words "stamps, stationery, printing" which precede them. The salary of a stenographer for the chairman of the advisory committee on certification of water and sewage works operators is not an item of the same grade of expense as stamps, stationery, and printing for your Division of Water and Sewage Certification. It is our opinion that this prevents the words "other operating expenses" from including compensation for a stenographer of the chairman of a voluntary advisory group of citizens, although they are serving without compensation in a commendable, public spirited effort to enhance your program of certification. If they or their clerical help are to be paid, it must be by specific appropriation which the Legislature has thus far failed to make.

SUMMARY

The established rule of statutory construction known as ejusdem generis operates

to prohibit the payment of a salary to the stenographer of the chairman of the advisory committee on certification of water and sewage works operators from Item 37 of the current Department of Health appropriation (Tex. Sess. L. 1947, c. 400, p. 849).

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
David B. Irons
Administrative Assistant

DBI:bb

APPROVED:

ATTORNEY GENERAL