



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 8, 1958

Mr. Frank Scofield
Chairman
Livestock Sanitary Commission
Fort Worth, Texas

Opinion No. WW-488

Re: May the Livestock Sanitary Commission, under the appropriation made by the 55th Legislature, employ and designate inspectors as supervisors, and related questions.

Dear Mr. Scofield:

In your letter of July 10, you asked if, in our opinion, the Livestock Sanitary Commission could employ personnel under the appropriation for "Supervising Inspectors" when such personnel would not supervise additional men, but would "give complete supervision of several counties in such specified districts where they work". As we interpret your request, you asked to be advised if the Commission may assign "Supervising Inspectors" (paid not to exceed the applicable salary schedule) duties other than that of supervising employees of the Commission.

The pertinent provisions of House Bill 133, Acts of 55th Legislature, Chapter 385 (General Appropriations Act) contain the following appropriation to the Livestock Sanitary Commission:

"For the Years Ending
August 31, 1958, August 31,
1959

". . .

<p>"12. For the eradication or control of any contagious, infectious, or communicable diseases of animals or live poultry, excluding indemnities _____</p>	<p>\$250,000</p>	<p>\$ 250,000 Plus Unexpended Balance</p>
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"13. For brucellosis eradication and control where livestock owners voluntarily pay half the costs, there is hereby appropriated as the State's share thereof, the sum of _____	100,000	125,000 Plus Unexpended Balance
"14. For the payment of indemnities as provided in general law	<u>15,000</u>	<u>15,000</u>
Grand Total, Livestock Sanitary Commission _____	\$459,860	\$ 490,860

"The appropriation made to the Livestock Sanitary Commission in Items 12 and 13 may be expended for personal services subject to the limitations hereinafter specified, and for professional fees; for laboratory tests, vaccines, supplies and materials including those for veterinary purposes; rent, telephone, telegraph, postage, and freight or express charges; equipment, the operation, maintenance, and replacement of trucks, and travel expense. (Emphasis added)

"None of the moneys appropriated in Item 13 may be expended for brucellosis eradication or control unless and until the Livestock Sanitary Commission has entered into agreements as authorized by law with livestock associations or owners, or local and federal governments, which agreements shall stipulate that costs paid by the State for brucellosis inspections, vaccines, or control measures shall not exceed fifty per cent of the total costs thereof. Such agreements shall be filed with the Comptroller prior to the disbursement of any moneys for brucellosis eradication and control from any of the appropriations herein made to the Livestock Sanitary Commission.

"It is further provided that none of the moneys appropriated in Items 12 and 13 may be expended for employees of the Livestock Sanitary Commission except

in the positions and at salaries not to exceed the annual rates specified as follows:

Supervising Inspectors, NTE _____	\$3,900
Inspectors, NTE _____	3,300
....."

It will be noted that the provisions after Item 14 authorize the Commission to expend the funds enumerated in Items 12 and 13 for "personal services". The third paragraph reveals the intent of the Legislature to authorize the Commission to use portions of such funds for paying employees an amount not to exceed the stated sums. There is no provision in the Appropriation Act indicating how many such employees may be hired, nor are the exact duties of such personnel specified.

The duties of the Livestock Sanitary Commission are set forth in the Penal Code, and include many duties to be performed by inspectors. For example, Article 1525a of Vernon's Penal Code, in Section 1, authorizes the Commission to direct cattle or sheep owners to dip their livestock. Sections 6 and 10 specify such dipping is to be done under the "supervision of an authorized inspector" of the Commission. Section 9 imposes the same duties insofar as they pertain to goats. Section 17 provides for the supervision of disinfecting of corrals and pens, and Section 18 provides for similar supervision when owners refuse or fail to dip their livestock. Section 20 reads in part as follows:

" . . . salaries of local County Inspectors to be paid by the County, but salaries of the said Chief Inspector and District Supervising Inspectors to be paid by the State."

The same general scheme is evidenced in Articles 1525b, 1525c, 1525d, and 1525f of Vernon's Penal Code. Such provisions reveal a Legislative intent that persons employed by the Livestock Sanitary Commission for such inspection and supervisory work, and who are paid by the State, are properly considered as filling a supervisory position. Furthermore we feel the Commission has implied authority to so designate certain of its personnel, and to assign their duties.

"Implied powers. -- It is equally well settled however, that a law which confers a power or imposes a duty upon an officer or board carries with it by implication the authority to do such things as are

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reasonably necessary to carry into effect the power granted or the duty imposed. Thus power to do certain work or to accomplish a certain result which cannot otherwise be accomplished, implies the authority to employ such agents as may be reasonably necessary to accomplish the work or purpose specified, and to engage them for such length of time as is reasonably necessary." 34 Tex.Jur. 444, Public Officers, Section 68.

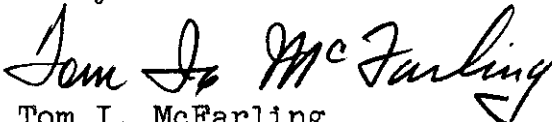
The Livestock Sanitary Commission is authorized to employ personnel as "supervising inspectors" and to assign such persons to carry out the duties imposed upon the Commission as they may pertain to the "complete supervision" of the work in several counties, including inspection of livestock and facilities, and to pay them the amount provided in the current Appropriation Act for "supervising inspectors". It is not obligatory that the duties of such personnel be confined to the supervision of other employees.

SUMMARY

The livestock Sanitary Commission, under its appropriation made by the 55th Legislature, may employ and designate personnel as "supervising inspectors" though their duties are not limited to the supervision of other Commission employees.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Tom I. McFarling
Assistant

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APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman

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Linward Shivers

REVIEWED FOR THE ATTORNEY GENERAL
BY: W. V. Geppert