



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

November 13, 1962

Mrs. Marie Hudson, Commissioner
Firemen's Pension
Austin, Texas

Opinion No. WW-1470

Re: Whether seasonal help
can be paid out of ap-
propriation to Firemen's
Pension Commissioner as
"current and recurring
expense."

Dear Mrs. Hudson:

We quote from your letter requesting an opinion from
this office as follows:

"Since the operating budget of this office
is so very small, our 'office expense' has always
been lumped into one Appropriation although it
was, of course, set out individually in our Bud-
get Request. The items covered under office ex-
pense are--postage, stationery, supplies, contin-
gent expenses and seasonal help. Our Budget Request
for September 1, 1961, through August 31, 1963, in-
cluded a request for seasonal help in the amount
of \$450.00. This amount was appropriated by the
Legislature.

"From September 1, 1961 through August 31, 1962,
we paid seasonal help out of this Appropriation, how-
ever, we are now advised by the Comptroller that we
are not permitted to pay seasonal help out of the of-
fice expense fund due to the phrasing of the appropriation
as it came out in Senate Bill No. 1.

"We are at a loss to understand why seasonal
help was paid out of this Fund last year but cannot
be paid this year. It is our contention that the
phrase 'current and recurring operating expense' can
include seasonal help.

"Will you please give us a ruling on whether or
not, in your opinion, seasonal help can be paid out
of this fund as it has for the past 22 years and since
money for seasonal help was approved by the 57th Legis-
lature."

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The important provisions of the Firemen's Pension Commissioner's budget request for the fiscal year ending August 31, 1963 are listed as follows:

"Salaries and Wages:

Commissioner	\$7,200
Secretary III	<u>4,516</u>
Sub-total, Salaries and Wages	11,716

"Other Expenses

Travel Expense	1,200
Seasonal help	450
Postage	435
Telephone & Telegraph	245
Stationary & Printing	150
Office Supplies	65
Repairs to Office Equipment	15
Office Equipment--Capital Outlay	
Sub-total, Other Expenses	<u>1,360</u>
Sub-total, Travel & Other Expenses	2,560

That part of the current appropriations to the Firemen's Pension Commissioner, Senate Bill No. 1, First Called Session, 57th Legislature, 1961, most pertinent to our discussion provides as follows:

"Firemen's Pension Commissioner "For the Years Ending
August 31, 1963

"Out of General Revenue Fund:

For Salaries and Wages--

1. Commissioner	\$6,000
2. Secretary III	<u>3,726</u>
Sub-total, Salaries and Wages	9,726

For Other Expenses

3. Travel Expense	1,200
4. Consumable supplies and materials, current and recurring operating expense (excluding travel expense), and capital outlay	1,350"

After making an examination of the appropriation to the Commissioner for the fiscal year ending August 31, 1963, in the light of the budget request for the same period, it would appear that the Legislative intent was to include the budget request of 'seasonal help' in line item No. 4 of the current appropriation to the Firemen's Pension Commissioner as "current and recurring operating expense." However, the first paragraph of Section 30 of Article V of Senate Bill No. 1 provides as follows:

"Sec. 30. LIMITATIONS ON USE OF OTHER EXPENSE FUNDS FOR PAYING SALARIES AND WAGES. None of the funds appropriated in Articles I, II, and III of this Act, or for the Central Education Agency in Article IV of this Act, in items designated for consumable supplies and materials, current or recurring operating expense or capital outlay may be used for paying any salaries and wages unless the language of those items explicitly authorizes such use.

". . ."

In view of the fact that the payment of salaries to seasonal employees is not explicitly authorized in line item No. 4 of the current appropriations to the Firemen's Pension Commissioner, it is our opinion that such salaries are not authorized to be paid.

S U M M A R Y

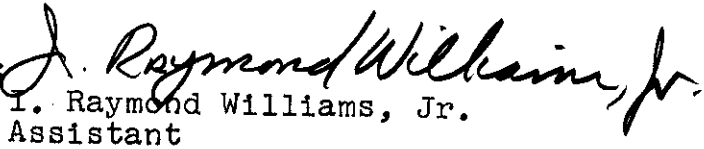
The limitations on the use of other expense funds for paying salaries and wages which are imposed by Article V, Section 30, Senate Bill No. 1, First Called Session, 57th Legislature, 1961, prohibit the payment of seasonal help out of the appropriation to the Firemen's Pension Commissioner as 'current and recurring

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operating expense.'

Sincerely,

WILL WILSON
Attorney General of Texas

By: 
I. Raymond Williams, Jr.
Assistant

IRW:mkh

APPROVED:
OPINION COMMITTEE
W. V. Geppert, Chairman
John Reeves
Joe Trimble
Milton Richardson

REVIEWED FOR THE ATTORNEY GENERAL
BY: Leonard Passmore