



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

September 23, 1968

Honorable Robert S. Calvert
Comptroller of Public Accounts
State of Texas
Austin, Texas

Opinion No. M-280-A

Re: Validity of certain
expenditure restrictions
contained in the general
appropriations bill,
which restrictions were
vetoed by the Governor.

Dear Mr. Calvert:

Your initial request for an opinion was heretofore answered in part by Attorney General Opinion No. M-280 (1968). We again quote your request insofar as it is pertinent to the questions remaining to be disposed of:

"The Comptroller of Public Accounts respectfully requests your official opinion in regard to the validity of certain restrictions contained in H.B. 5, the General Appropriations Bill, passed by the 60th Legislature, First Called Session, 1968. In Opinions No. V-1254 (August 25, 1951) and M-219 (April 18, 1968) you expressed the opinion that certain restrictions placed upon expenditures of money in the appropriation bill might conflict with general law and would be invalid. In your Opinion No. V-1196 (June 28, 1951) you expressed the opinion that the Governor's veto of a restriction without a concurrent veto of a specific item of appropriations under certain circumstances would not be an effective veto. The General Appropriations Bill contained the following restrictions upon expenditures, all of which restrictions were vetoed by the Governor.

"(1) Department of Health and Air Control.

"None of the funds appropriated above may be expended on activities, other than research and correspondence, which are in any manner connected with cotton gins or the cotton ginning industry of the State of Texas.'

"(2) Parks and Wildlife Department.

"The appropriation made in Item 14b above is to be expended for the acquisition, restoration, and maintenance of the following historical sites listed in order of the priority: Leaton McKavett Lancaster, Griffin, Concho and Richardson. No money is to be spent for restoration and maintenance until the State of Texas shall have acquired valid legal title to such sites.'

"(3) Department of Public Safety.

"Whenever the Texas Department of Public Safety shall, by agreement entered into under the authority of the Inter-Agency Cooperation Act, provide for appropriate reimbursement therefor, such Department is authorized to expend such funds as may be necessary out of the funds appropriated herein to permit the proper policing turnpike and turnpike projects under contracts entered into with the Texas Turnpike Authority pursuant to Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, provided, however, that funds received from the Texas Turnpike Authority shall be deposited to the State Highway Fund No. 6, and are not reappropriated by this Act.'

"(5) Article V, Section 2, paragraph D.

"None of the funds appropriated in this Act may be used to employ a person who took a leave

of absence from State employment for the purpose of participating in a political campaign.'

"(6) Article V, Section 12.

"'Liability insurance. As employee compensation in addition of that otherwise provided herein, any state agency authorized by the Act to purchase and operate motor vehicles, may reimburse its employees, out of funds appropriated in this Act, for cost incurred in purchasing any necessary additional personal liability insurance for the purpose of insuring against personal liability arising out of the full time use of such state-owned motor vehicle.'

"Attached is a copy of the Governor's Proclamation issued on July 20, 1968, in vetoing the above restrictions to the Appropriations Act.

"The Comptroller hereby requests your official opinion as to whether the Comptroller may issue warrants for payments out of the funds involved without regard to the restrictions listed above."

Each of the above quoted restrictions in the opinion of this office attempts to change the pre-existing law or statutory power of the Department concerned to carry out prescribed responsibilities and duties and this amounts in law to general legislation. Such general legislation cannot be embodied in the General Appropriations Bill. Attorney General Opinion No. M-280 (1968), and authorities cited therein, to which reference is made for a thorough discussion of the law on this subject.

Regardless of the veto of such provision by the Governor, the restrictions were invalid, as outlined in Attorney General Opinions M-280 (1968), M-219 (1968), C-119 (1963) and V-1254 (1951). You are therefore advised that the Comptroller may issue warrants for payments out of the

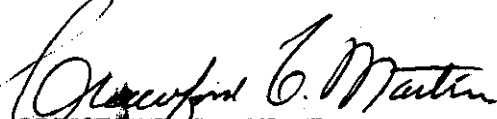
HOn. Robert S. Calvert, page 4 (M-280-A)

funds involved without regard to the restrictions listed in your request.

S U M M A R Y

The Comptroller may issue warrants for payments out of appropriated funds without regard to the quoted invalid restrictions contained in an Appropriations Bill.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Hawthorne Phillips, Chairman
Kerns Taylor, Co-Chairman
Bill Allen
John Banks
Richard Chote
Roger Tyler
Alfred Walker

A. J. CARUBBI, JR.
Executive Assistant