



**THE ATTORNEY GENERAL  
OF TEXAS**

**CRAWFORD C. MARTIN**  
ATTORNEY GENERAL

**AUSTIN, TEXAS 78711**

August 28, 1970

Honorable Martin Dies, Jr.  
Secretary of State  
Capitol Station  
Austin, Texas

Opinion No. M- 669

Re: Travel allowance and per diem  
for members of the American  
Revolution Bicentennial  
Commission of Texas.

Dear Sir:

In your recent letter you requested the opinion of this office as to the travel allowance and per diem that may be paid under the provisions of Senate Bill Number 701, Acts of the 61st Legislature, Regular Session, 1969 (codified as Article 6145-8, Vernon's Civil Statutes), to members of the American Revolution Bicentennial Commission of Texas.

Paragraph B of Section 1 of that bill makes provision for travel allowance and per diem for such members. Paragraph A of Section 4 of the bill appropriates money to the commission.

Paragraph B of Section 1 reads as follows:

"Members of the commission shall be reimbursed for mileage and per diem only, and shall receive no other compensation, perquisite or allowance. The mileage shall be the same as allowed to members of the Legislature, to wit, ten cents per mile, to and from the place of meeting and their respective places of residence. The per diem shall be Twenty-five Dollars per day or fraction thereof."

We are of the opinion that in providing for mileage at ten cents per mile the Legislature intended to deal only with intrastate mileage from a member's place of residence to a meeting place in Texas, for the reason that the draftsman was careful to equate this allowance with the travel allowance provided for members of the Legislature when traveling to its meeting place. Therefore, this statute as enacted will govern the mileage allowed when a member travels from his place of residence to a meeting of the commission; and he will be allowed ten cents per mile regardless of his mode of travel.

Article 6145-8 is silent as to other travel, hence other travel, such as a trip to Washington for a conference, will be

governed by the provisions of Article 6823a, Vernon's Civil Statutes, enacted as the "Travel Regulations Act of 1959."

Section 3(a) of Article 6823a reads, in part, as follows:

"Reimbursement from funds appropriated by the Legislature for traveling and other necessary expenses incurred by the various officials, heads of state agencies, and employees of the state in the active discharge of their duties shall be on the basis of either a per diem or actual expenses as specifically fixed and appropriated by the Legislature in General Appropriation Acts. . . ."

The Legislature has made provision for certain transportation allowances under House Bill Number 2, the General Appropriation Act enacted by the 61st Legislature, Second Called Session, 1969. Article V, Section 13(b) of that Act reads, in part, as follows:

"An employee traveling by rented or public conveyance, or the commercial transportation company furnishing same, is entitled to a transportation allowance equal to the actual cost of necessary transportation for performing official business. . . ."

We are of the opinion, therefore, that a member of the commission who travels to Washington or other out-of-state points on official business by commercial transportation is entitled to reimbursement of his actual cost of transportation.

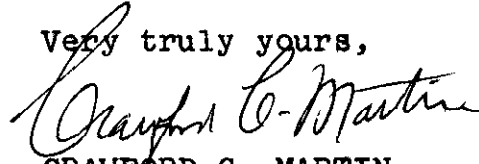
Article 6145-8 clearly provides a twenty-five dollar per diem for members of the commission. We are of the opinion that this statute is controlling and that a member of the commission is therefore entitled to a per diem of twenty-five dollars per day or fraction thereof which he devotes to official commission business. General law would provide actual expenses for members of the commission when on official business, as they could qualify as heads of a state agency under Article 6823a, Section 2 and Article V, Section 16, of the General Appropriations Act. Article 6145-8 is a special enactment, however, and controls where there is a conflict with general law in the matter of per diem allowance.

#### S U M M A R Y

Under Article 6145-8, Vernon's Civil Statutes, a member of the American Revolution Bicentennial

Commission of Texas, when on official business of the commission, is entitled to be reimbursed at the rate of ten cents per mile when traveling within the state to a meeting of the commission; such member is entitled to his actual cost of transportation when traveling to points outside the state, and in either case is entitled to a per diem of twenty-five dollars for each day or fraction thereof.

Very truly yours,



CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by James S. Swearingen  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

Kerns Taylor, Chairman  
W. E. Allen, Co-Chairman  
A. J. Gallerano  
Terry Reed Goodman  
Wardlow Lane  
Ivan Williams

MEADE F. GRIFFIN  
Staff Legal Assistant

ALFRED WALKER  
Executive Assistant

NOLA WHITE  
First Assistant