



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

April 4, 1974

The Honorable Clayton T. Garrison  
Executive Director  
Texas Parks & Wildlife Department  
John H. Reagan Building  
Austin, Texas 78701

Opinion No. H- 271

Re: Restrictions on  
appropriation to Parks and  
Wildlife Department for  
grants to cities and counties  
for beach cleaning and main-  
tenance

Dear Mr. Garrison:

You have asked:

"Is the Parks and Wildlife Department limited by the provisions of the current appropriations bill and the appropriations bill for FY 74 and FY 75 to a maximum payment of \$50,000 for any single grant subject to equal matching by cities or counties for maintenance and clearing of Public beaches and to \$200,000 total state expenditure?"

Item 20 of the appropriation for the Parks and Wildlife Department (Acts 1973, 63rd Leg., ch. 659, p. 1786, at 2007) provides:

"20. For payment to cities and counties for maintenance and cleaning of Public beaches NTE \$50,000 for any single grant, subject to equal matching and contingent upon there being no admission fees charged for entry onto such public beaches	1974	1975
	200,000	200,000"

Article 5415d-1, § 7, Vernon's Texas Civil Statutes, provides in part:

"Sec. 7. (a) From the appropriation available therefor, the Parks and Wildlife Department shall from time to time pay to each county or city which has its application approved under Section 3 of this Act, an amount hereinafter referred to as the 'state share,' . . . .

"(c) No county or city shall receive as its 'state share' a sum greater than two-thirds of the amount such county or city expends for the purpose of cleaning and maintaining public beaches within its jurisdiction during the state fiscal year for which reimbursement is sought. The Department shall allocate the 'state share' to eligible counties and cities, taking into account the frequency with which public beaches within the jurisdiction of such counties and cities are used."

It is clear that an appropriation bill may not be a vehicle for amending or enacting general law. Texas Constitution, Article 3, § 35; Moore v. Sheppard, 192 S. W. 2d 559 (Tex. 1946). The type of incidental provisions or riders which may be included in an appropriations bill was ably and exhaustively discussed in Attorney General Opinions V-1253 and V-1254 (1951). Attorney General Opinion V-1254 states at page 8 that:

"With special regard to what incidental provisions may be included within a general appropriation bill, our Texas courts have not stated a general rule. However, from statements as to what may not be included and from numerous opinions of the Attorney General, we believe the rule may be stated generally as follows: In addition to appropriating money and stipulating the amount, manner, and purpose of the various items of expenditure, a general appropriation bill may contain any provisions or riders

which detail, limit, or restrict the use of the funds or otherwise insure that the money is spent for the required activity for which it is therein appropriated, if the provisions or riders are necessarily connected with and incidental to the appropriation and use of the funds, and provided they do not conflict with general legislation. "

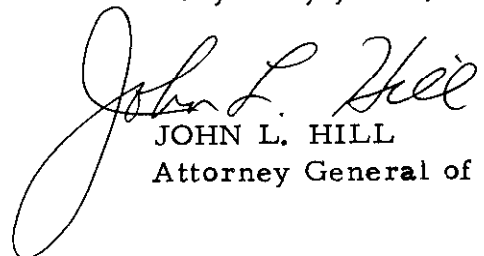
The \$200,000 limit on state expenditures for beach cleaning grants and the \$50,000 maximum payment to any single grantee are clearly permissible limits of the amount of expenditures. The requirement that grants be allocated on a fifty-fifty matching basis does not conflict with the statutory mandate that "no county or city shall receive as its 'state share' a sum greater than two-thirds of the amount such county or city expends for the purpose of cleaning and maintaining public beaches. . . ." The restriction contained in the Appropriations Act clearly is consistent with this language of article 5415d-1, § 7(c), and is merely a means of detailing or limiting the use of funds.

Therefore, your first question is answered in the affirmative. Your second question was premised on a negative response to your first question, and it is unnecessary to consider it.

SUMMARY

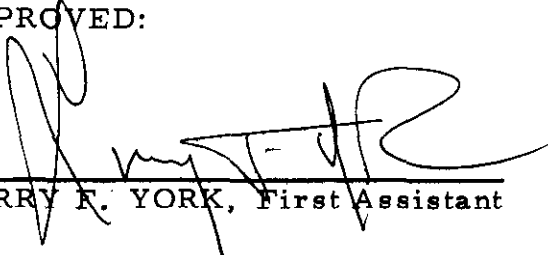
The restrictions expressed in the appropriation to the Parks and Wildlife Department for grants to counties and cities for beach cleaning and maintenance are not invalidated by Article 5415d-1, Vernon's Texas Civil Statutes.

Very truly yours,



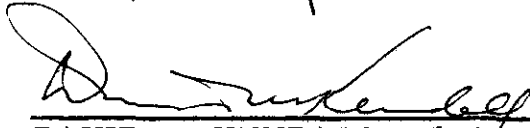
JOHN L. HILL  
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APPROVED:



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LARRY F. YORK, First Assistant



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DAVID M. KENDALL, Chairman  
Opinion Committee