



# The Attorney General of Texas

May 30, 1978

JOHN L. HILL  
Attorney General

Supreme Court Building  
P.O. Box 12548  
Austin, TX. 78711  
512/475-2501

701 Commerce, Suite 200  
Dallas, TX. 75202  
214/742-8944

4824 Alberta Ave., Suite 160  
El Paso, TX. 79905  
915/533-3484

723 Main, Suite 610  
Houston, TX. 77002  
713/228-0701

806 Broadway, Suite 312  
Lubbock, TX. 79401  
806/747-5238

4313 N. Tenth, Suite F  
McAllen, TX. 78501  
512/682-4547

200 Main Plaza, Suite 400  
San Antonio, TX. 78205  
512/225-4191

An Equal Opportunity  
Affirmative Action Employer

Honorable W. J. Estelle, Jr.  
Director, Texas Department  
of Corrections  
Huntsville, Texas 77340

Opinion No. H- 1168

Re: Authority of Department  
of Corrections to spend building  
appropriation on employment of  
guards.

Dear Mr. Estelle:

You inquire about the proper interpretation of the following rider to the appropriation for the Department of Corrections.

#### BUILDING PROGRAM:

The amounts appropriated above for the "Building Program" are made subject to construction and completion of said projects by the use of prison labor insofar as possible.

Such building appropriations may be used to pay salaries of engineers, superintendents and supervisors of construction; architectural fees and the actual and necessary travel expenses incurred by them or their representatives in making special trips of inspection at the instance of the Board of Corrections or the Director of the Department of Corrections during construction or repair of buildings or installation of fixed equipment in such buildings. The State Classification Officer shall approve job titles and rates of pay for such salaried positions.

Acts 1977, 65th Leg., ch. 872, at 2870. This provision governs the expenditure of funds appropriated for specific construction projects. *Id.* at 2865. It has appeared in appropriation acts since 1957. See General Appropriations Act, Acts 1957, 55th Leg., ch. 385, at 1049. See also V.T.C.S. art. 6203c, § 4.

You wish to know whether this rider authorizes you to spend funds appropriated for a particular construction project to employ security

personnel for the inmate labor force working on the project. The specific line item you inquire about provides:

7. Building Programs

...

c. Flood Control Levee at Coffield Unit 1,500,000 U.B.

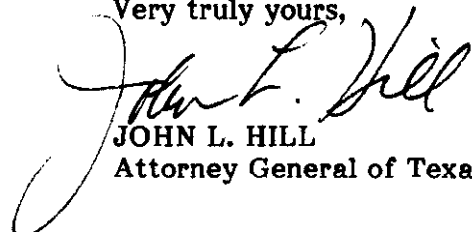
Acts 1977, 65th Leg., ch. 872, at 2865.

In our opinion, you may pay the costs of guarding an inmate labor force from this appropriation, if reasonably necessary to the completion of the project using inmate labor. We caution, however, that only those security costs directly attributable to the construction project may be charged to the project's appropriation item. Although the rider specifies that building appropriations "may be used to pay salaries of engineers, superintendents and supervisors of construction," we do not believe that listing is exhaustive. If inmate labor were not used, the salaries of construction workers would have to come from the building appropriation. See Attorney General Opinions H-1035 (1977); S-109 (1953); V-384 (1947).

S U M M A R Y

The Department of Corrections may use part of its Building Program appropriation to provide security for an inmate labor force, where the expenditure is reasonably necessary to the completion of the project using inmate labor.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

A handwritten signature in cursive script, appearing to read "C. Robert Heath". The signature is written in dark ink and is positioned above a horizontal line.

C. ROBERT HEATH, Chairman  
Opinion Committee

jsn