



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**GERALD C. MANN  
~~WILLIAMSON~~  
ATTORNEY GENERAL**

Overruled by *111-113*  
*where conflict*

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. 0-708  
Re: Authority of Comptroller to  
issue warrants against the Texas  
Unemployment Compensation Admin-  
istration Fund for the payment  
of salary and expenses of attor-  
neys employed by the Unemploy-  
ment Compensation Commission.

We acknowledge receipt of your request for an opinion  
on the following question:

"Is this department authorized to issue war-  
rants against the Texas Unemployment Compensation  
Administration Fund in the State Treasury in pay-  
ment of salary and expenses for an attorney employed  
by the Texas Unemployment Compensation Commission?"

Paragraph 17 of Senate Bill 5, Acts 1936, 44th Legisla-  
ture, 3rd Called Session, as amended by House Bill 586, 44th  
Legislature and Senate Bill 21, 46th Legislature, reads as fol-  
lows:

"Section 17. (a) In any civil action to en-  
force the provisions of this Act the Commission  
and the State shall be represented by an Assistant  
Attorney General who shall be appointed by the  
Attorney General and designated to perform such  
legal duties as may be required of him by the  
Commission, and who shall institute in the name  
of the State and in the name of the Attorney Gen-  
eral any civil action requested of him by the  
Commission. Such Assistant Attorney General  
shall be paid by the Unemployment Compensation  
Commission for the services performed by such  
Assistant Attorney General solely for the Commis-  
sion. Such Assistant Attorney General may be  
assisted by any other qualified attorneys who are  
regularly employed by the Commission. (emphasis ours)

"(b) All criminal actions for violations of any provision of this Act, or of any rule or regulation issued pursuant thereto, shall be prosecuted by the Attorney General of the State; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides."

Paragraph (d) of Section II of this Act reads as follows:

"(d) Personnel: Subject to other provisions of this Act, the Commission is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and may, in its discretion, bond any person handling money or signing checks hereunder." (emphasis ours).

The section last quoted is made subject to other provisions of the act and is controlled and limited by the more specific language of Section 17. The requirement in Section 17 that the Commission be represented by an Assistant Attorney General is mandatory. Reading together all of the sections above quoted, it appears that the Commission may fill other positions with qualified attorneys and that any such attorneys so employed may be designated to assist and aid the Assistant Attorney General. It is clear that the statute by virtue of which the Texas Unemployment Compensation Commission was created authorizes the Commission to employ attorneys in the administration of the act, but at the same time limits the capacity in which they may be employed.

It is the opinion of this department that the Comptroller of Public Accounts is authorized to issue warrants against the Texas Unemployment Compensation Commission Administration Fund for the payment of the salary and expenses of employees who are qualified attorneys, but not to an attorney who is employed for the purpose of representing the Commission, as provided for in Section 17 of the Act above referred to, unless such attorney is an Assistant Attorney General.

Hon. George H. Sheppard, page 3

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Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ross Carlton  
Ross Carlton  
Assistant

RC:jm:wc

APPROVED JUN 24, 1939  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BW Chairman