



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN
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WILL WILSON
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. George W. Cox, M. D.
State Health Officer
Austin, Texas

Dear Sir:

Opinion No. 0-1562

Re: Whether \$4.00 per day limitation on traveling expenses provided by rider to departmental appropriation bill applies to trip by State Health Officer to Washington, D.C., at request of Federal officials, expenses of such trip to be paid out of funds allocated to the State of Texas by the Children's Bureau of the Federal Government.

This will acknowledge receipt of your letter of October 6, 1939, wherein you advise that you have been requested by Miss Katharine F. Lenroot, Chief of the Children's Bureau, and by Surgeon General Thomas Parran of the United States Public Health Service, to come to Washington, D. C., for the purpose of studying plans, rules and regulations for the administration of health affairs and moneys allocated to Texas, and that you have been advised by Miss Lenroot that your expenses will be paid out of funds allocated to the State of Texas by the Children's Bureau.

You desire the opinion of this department upon the following question:

"Please advise me if expenses incurred on a trip to Washington, on official business, will be limited to \$4.00 per day, or will the expenses incident thereto be limited to actual expenses if paid out of funds allocated to the Health Department of the State of Texas by the United States Public Health Service or the Children's Bureau."

Your question is not one which can be given a categorical answer, upon the basis of the information contained in your letter. The answer to your question depends upon the facts as to whether or not, in allocating funds to the State of Texas by the Children's Bureau, the Federal government has made an unrestricted grant of such funds in such manner as to constitute the funds "State funds," subject to the

complete control of the Legislation of the State of Texas. If this be the situation, the expenses incurred by you on your trip to Washington, on official business, would be limited to \$4.00 per day, in accordance with the rider appended to the departmental appropriation bill. On the other hand, if the condition of the grant to the State of Texas by the Children's Bureau was that the expenditure of such Federal funds should be subject to the control of the proper Federal authorities, or the grant at the time it was made prescribed the use that might be made of such funds in respect to traveling expenses authorized to be paid therefrom, such funds would be received and retained by the State of Texas impressed with the trust, and the expenditure of such funds would be controlled by the Federal regulations, rather than by our State laws.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/R. W. Fairchild
R. W. Fairchild

RWF:pbp:wc

APPROVED OCT 23, 1939
s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman