



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Tom C. King
State Auditor
Austin, Texas

Dear Mr. King:

Opinion No. O-1738
Re: Compensation of Members of
the State Board of Hairdressers
and Cosmetologists

We have your letter of November 23, 1939,
which we shall quote in full:

"Sec. 7 of art. 734b, Vernon's Annotated Penal Code, relating to the State Board of Hairdressers and Cosmetologists, provides as follows:

"The members of the Board shall each receive Ten Dollars (\$10.00) a day and actual expenses incurred in performance of their official duties, provided the salaries of each of said members shall in no one (1) year exceed Twenty-five Hundred Dollars (\$2,500.00), providing such expenses shall be allowed if and when audited, approved, and allowed by the State Auditor and Efficiency Expert *

"Senate Bill No. 427, 46th Legislature, the Departmental Appropriation bill, makes no reference to this per diem with maximum allowance, but simply provides for a salary

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of \$2,500.00 for each member of the Board during each year of the current biennium.

"Your opinion is respectfully requested as follows:

"1. Is the appropriation to be read in the light of the general statute, so as to conclude that the Legislature appropriated \$2,500.00, or so much thereof as may be necessary for the payment of a per diem; or

"2. Was there a valid appropriation of a salary of 1/12 of \$2,500 per month for each member?"

It is our opinion that the Legislature, by providing in the Departmental Appropriation Bill for the current biennium (Senate Bill No. 427, 46th Legislature) an appropriation of \$2,500 for each of the three members of the State Board of Hairdressers and Cosmetologists, intended that this money should be disbursed in accordance with the terms of Section 7 of Article 734b, Vernon's Annotated Penal Code, which you quote in your letter. The general law on the subject would ordinarily prevail over a conflicting provision in the appropriation bill. We do not, however, believe that there is any conflict between the two. The general rider to the Departmental Appropriation Bill (at bottom of page 146 of the Supplement to the Senate Journal for June 13, 1939) contains the following provision:

"The appropriations herein provided are to be construed as the maximum sums to be appropriated to and for the several purposes named herein* * *"

Section 7 of Article 734b of the Penal Code provides that "the members of the Board shall each receive Ten Dollars (\$10.00) a day" and sets a maximum of \$2,500 per year. The appropriation bill appropriates \$2,500 per year for that purpose. These two provisions seem to us entirely consistent one with the other, and they should be so construed. As said by Justice Phillips, of the Supreme Court of Texas in *Cole v. State*, ex rel.

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Cobqini, 106 Texas 472, 170 S. W. 1036:

"Repeals by implication are never favored. Laws are enacted with a view to their permanence, and it is to be supposed that a purpose on the part of the lawmaking body to abrogate them will be given unequivocal expression. Knowledge of an existing law relating to the same subject is likewise attributed to the Legislature in the enactment of a subsequent statute; and when the later act is silent as to the older law, the presumption is that its continued operation was intended, unless they present a contradiction so positive that the purpose to repeal is manifest."

We accordingly answer your first question, "Yes," and your second question, "No."

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Walter R. Koch*
Walter R. Koch
Assistant

WRK:LV

APPROVED DEC 4, 1939

Gerrard: Mann
ATTORNEY GENERAL OF TEXAS

