



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Julian Montgomery
State Highway Engineer
Austin, Texas

Dear Sir:

Opinion No. 0-1755
Re: Legality of a Plan of
Group Insurance for Em-
ployees of the Highway
Department.

We are in receipt of your request for an opinion of this department in answer to the questions set out in your letter as follows:

"A plan of group insurance for employees of the Highway Department has been submitted for the consideration of the Executives of the Department. Among other coverages the plan provides for life insurance in the amount of \$500.00 for all employees earning \$75.00 per month or more and \$250.00 for those earning less. It also provides that each employee, who desires to avail himself of the insurance, shall execute an assignment for a portion of his salary equivalent to the monthly premium, which amount would be deducted from his salary warrant by the Comptroller, and warrant for that amount issued by the Comptroller to the insurance company. We desire to know:

- "(1) Would it be legal for an insurance company to issue a policy of group insurance to employees of the Highway Department, which included life

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insurance? The Department, of course, could not pay any portion of the premium.

"(2) Can any portion of an employee's wages or salary, when assignment has been given, be paid to someone else?

"(3) Assuming that your answer to the second inquiry is 'yes', and that some plan of group insurance was recommended to the employees of the Department and that several thousand of our employees bought the coverage and made assignments authorizing payroll deduction; this would require a great deal of extra work on the part of our accountants in making up additional payrolls, etc. Would it be legal to use our accountants for this purpose?"

We are unable to find any reason why employees of the Highway Department should not be allowed to avail themselves of group insurance. This would be purely a private undertaking, and there is nothing in their employment by the State of Texas which would prohibit such an enterprise on their part.

In answer to your questions numbered (2) and (3), we pay particular attention to your statement that the adoption of the plan proposed would require a great deal of extra work on the part of the accountants of the Highway Department. There is no need of discussing the feasibility or legality of any plan which would require the use of state employees for a private purpose.

Article XVI, Section 6, Constitution of Texas, provides:

"No appropriation for private or individual purposes shall be made. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be

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prescribed by law."

From the above quoted provision it may be seen that the Legislature does not have the authority to appropriate money to be used for a private or individual purpose. It therefore follows beyond question that money which the Legislature has appropriated may not be used for such a purpose. To use state employees as accountants for a group of employees taking out group insurance, would be to use such employees for a private purpose, and would be the expenditure of state money for a private purpose. Any plan of group insurance which makes this requirement is unauthorized and may not be approved.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Billy Goldberg

Billy Goldberg
Assistant

APPROVED FEB 10, 1940

BG:LN

George B. Mason
ATTORNEY GENERAL OF TEXAS

