



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

AUSTIN 11, TEXAS

XXXXXXXXXXXXXXXXXXXX
~~WILL WILSON~~
ATTORNEY GENERAL

Hon. H. A. Glass, Director
Textbook Division
Department of Education
Austin, Texas

Dear Sir:

Opinion No. 0-2213

Re: Appropriation Act, S. B. 427, 46th
Legislature--Textbook Division--
Employment of necessary additional
help out of contingent fund.

This will acknowledge receipt of your letter of date April 12, 1940,
wherein you ask the opinion of this department upon the following question:

"May the Textbook Division employ necessary additional help and charge it against the contingent expense as itemized under 'Maintenance and Miscellaneous' in Senate Bill No. 427, which is the General Appropriation Bill passed by the last Legislature?"

It seems, from the statement of facts which accompanies your question, that you desire to use the contingent fund to employ additional seasonal help.

There is an item of \$6,000 specifically appropriated by the Legislature for "seasonal help, clerical, stenographic and labor." The contingent fund, by definition, is available only for those items of expense which the Legislature has not specifically provided a definitely limited amount to take care of. However, we find in the general rider appended to Senate Bill 427 a provision which indicates a legislative intent that, in addition to the purposes for which the contingent fund is ordinarily to be considered as available, such contingent fund may be used to pay the salaries of additional employees.

The provision of the general rider to which we refer is as follows:

"When any additional employees, other than those for which specific salary appropriations have herein been made, are employed and are to be paid out of contingent appropriations, such employees shall not be paid a larger amount than than provided in the regular appropriated salaries for similar positions in such department or agency, . . ."

This provision of the appropriation bill would be meaningless, if it were not intended by the Legislature that contingent appropriations might be used to employ additional employees. Such authority is therefore clearly implied. The Legislature obviously must have intended that the contingent appropriations made in Senate Bill 427 should be available for the hiring of additional employees.

Your question is therefore answered in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *R. W. Fairchild*

R. W. Fairchild
Assistant

RWF:PBP

APPROVED MAY 6, 1940

Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
By *BWB*
Chairman