



## OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable William J. Lawson  
Secretary to the Governor  
Austin, Texas

Dear Sir:

Opinion No. O-2570

Re: Authority of the Governor to  
approve deficiency warrants  
for the Texas College of Arts  
and Industries.

In your letter of July 24, 1940, you ask the opinion of this department upon the question whether the application as presented to the Governor by the Texas College of Arts and Industries for the approval of the issuance of deficiency warrants in the amount of \$14,000.00 to meet an emergency water shortage at said college may be allowed by the Governor, within the authority granted him by Article 4351, R. C. S., 1925.

The file accompanying your letter reflects the following:

The sworn application addressed to the Governor by the President of the Texas College of Arts and Industries seeks the issuance of deficiency warrants in the sum of \$14,000.00 to supplement the appropriation made by the 46th Legislature in the sum of \$1,500 for the fiscal year beginning September 1, 1939 and ending August 31, 1940, for general repairs and improvement purposes for said college. The letters accompanying said instrument reflect that the \$14,000.00 is to be used to drill a well, construct a settling basin, tower, and tank, and supply pumping machinery. The application asserts that the conditions which have given rise to the need for the \$14,000.00 expenditure were unforeseen at the time the appropriation for \$1,500 was made by the 46th Legislature. This statement, however, is contradicted by each of the two letters addressed by the President of the Texas College of Arts and Industries to the Governor concerning this same matter. In the letter of May 15, 1940, these sentences are found in the last paragraph:

"I urgently request that this deficiency appropriation be granted to meet this unforeseen emergency. We have been anticipating this need

Hon. William J. Lawson, Page 2

for several years because of the growing demands of the college and the expansion of the City itself."

And in the letter of date July 8, 1940, this paragraph is found:

"This request was made as an emergency measure at the last Legislature. We were told to await the regular appropriation bill and it would be included. This promise was fulfilled, but failed to secure the Governor's approval. It is, therefore, essential, that these funds be immediately supplied in order that the interests of the state may be best served."

An examination of the appropriations made by the 46th Legislature to the Texas College of Arts and Industries, in H. B. 255, Acts of the 46th Legislature, Regular Session, reveals that an item of \$13,100.00 was provided by the Legislature for the fiscal year ending August 31, 1940, for "well, tank and tower." This item of appropriation was vetoed by the Governor.

You are advised that the situation presented herein is identical with those discussed and ruled upon in our Opinion No. 0-2118, addressed to the Governor of Texas, concerning the Southwest State Teachers College and the Sul Ross Teachers College. In each instance, we ruled that there was no "casual deficiency" because the situation calling for the expenditure of funds had not only arisen at the time that the Legislature was in session, but had been expressly considered by it, an item of appropriation provided, and such item in each instance was vetoed. The same is true with reference to the matter immediately under consideration.

You are therefore advised that in our opinion, the Governor does not have the authority to approve the issuance of the deficiency warrant requested. For a more detailed discussion of the principles involved, we refer you to our Opinion No. 0-2118.

Yours very truly

APPROVED AUG 2, 1940

ATTORNEY GENERAL OF TEXAS

*George A. Quinn*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By *RW Fairchild*  
Richard W. Fairchild  
Assistant



RKF:rw