



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

AUSTIN 11, TEXAS

~~ATTORNEY GENERAL~~

Honorable Tom DeBerry, Member
State Board of Control
Austin, Texas

Dear Sir:

Opinion No. O-3294
Re: Authority to approve accounts for
automobile repair work done for the
State Parks Board by a garage owned by
a member of the Parks Board.

We have your letter of March 17, 1941 outlining the following facts:

"The Texas State Parks Board has presented to the Claims Division of this Board for its approval certain invoices for repair work and parts installed in certain automobiles and trucks belonging to the Parks Board. These invoices were rendered by the J. V. Ash Motor Company of Bastrop, Texas which is owned by Mr. J. V. Ash, a member of the Parks Board, and have been approved for payment by Mr. Ash in his capacity as a member of the said Board. The parts were billed at the same discount which the State now secures under its auto parts contract, but otherwise there was no competitive element in the transaction as this Board has no means to control labor charges."

You request our opinion in response to the following questions:

- "1. Can this Board legally approve for payment the above mentioned invoices which were both rendered and approved by a member of the State Parks Board?
- "2. Could this Board legally approve for payment said invoices if they were approved by some other member of the State Parks Board than the seller himself?"

Liabilities of the kind under consideration are ordinarily incurred by the respective State Departments. Article 634, Revised Civil Statutes, providing that "The Board of Control shall purchase all supplies used by each Department of the State Government" hardly could be said to take out of the hands of a department the power to incur obligations for automobile repair work. Such is the practical construction given by the statute by the various departments of the State government over many years. Applying what we have just said to the present case, the purchase of this repair work was by the State Parks Board, not by the Board of Control.

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Such being true, we are compelled to advise that the claim may not be set up for payment, whether approved by Mr. Ash or by any other member of the State Parks Board, and we answer both of your questions in the negative. We enclose copies of our opinions Nos. 0-878, 0-1014, and 0-2603A which sufficiently explain our reasons for the above holding. You will note the difference between the facts in opinion No. 0-2603A and in this one. There the purchase was made by the Board of Control.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Glenn R. Lewis

Glenn R. Lewis
Assistant

GRL: AMM:egw

APPROVED APRIL 16, 1941
/s/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
Opinion Committee
By B W B
Chairman