



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Miss Fannie M. Wilcox
State Librarian
Austin, Texas

Dear Miss Wilcox:

Opinion No. O-3409
Re: Application of the Teacher
Retirement Act to members
of the Texas State Library.

We received your letter dated April 14, 1941, requesting our opinion on the following questions:

"1. Do the members of the Texas State Library come within the provisions of the present Teacher Retirement law?

"2. If not, could an amendment to such law be extended constitutionally to the staff of the Texas State Library?"

We call your attention to Section 48a of Article 3 of the Constitution of Texas which reads, in part, as follows:

"In addition to the powers given to the Legislature, under Section 48 of Article 3, it shall have the right to levy taxes to provide a Retirement Fund for persons employed in public schools, colleges and universities, supported wholly or partly by the State; provided that the amount contributed by the State to such Retirement Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum of the compensation paid to each such person by the State, and/or school districts, and shall in no one year exceed the sum of One Hundred Eighty (\$180.00) Dollars for any such person; provided no person shall be eligible for a pension under this Amendment who has not taught twenty years in the State of Texas, but shall be entitled to a refund of the moneys paid into the fund."

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It will be noted that the Constitution grants to the Legislature the power to provide a Retirement Fund for persons employed in public schools, colleges and universities. We have carefully read Articles 5434-5446, same being Title 89 of the Revised Statutes. We find nothing in these articles which would tend to show that the members of the Texas State Library were employed, either directly or indirectly, in any public school, college or university. For this reason, it is our opinion that the Teacher Retirement Act cannot be amended to extend to members of the Texas State Library as it is now constituted.

The Teacher Retirement Act, codified in Vernon's Annotated Civil Statutes as Article 2922-1, does not expressly include members of the Texas State Library. Since we are of the opinion that the Act cannot constitutionally extend to the members of the now existing Texas State Library, we answer both questions in the negative.

APPROVED APR 23, 1941

Groves Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Lee Shoptaw*
Lee Shoptaw
Assistant

LS:db

