



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. B. Satterfield
Pension Commissioner
State Firemen's and Fire Marshal's Association
Austin, Texas

Dear Sir:

Opinion No. 0-4021
Re: Sufficiency of form letter
prepared by Firemen's Pension
Commissioner under the pro-
visions of House Bill 258,
Acts of 1937, 45th Legislature

Your letter of September 18, 1941, submits to this department a copy of a form letter which you have prepared to be executed by the local boards under the provisions of House Bill 258, Acts 1937, 45th Legislature, page 229, in order that you may obtain the information necessary to enable you, as Pension Commissioner, to comply with the requirements of the Act that the Pension Commissioner shall determine and certify to the State Treasurer such boards as shall, under the provisions of the Act, qualify for and be entitled to an apportionment from the said Firemen's Relief and Retirement Fund.

The Act does not provide the method by which the Firemen's Pension Commissioner shall determine the boards qualified for and entitled to an apportionment from the Fund, and consequently the Firemen's Pension Commissioner is at liberty to adopt such method of determining the facts as is required to enable him to satisfy himself of their existence. The findings of the Firemen's Pension Commissioner may be made on the basis of information required to be submitted to him by letter, certificate, affidavit, or in any other reasonable manner.

We have examined the proposed form letter which you have determined to adopt, and find that it appears to be adequate in every respect save one. The form letter refers to the city or town as having a "regularly organized Fire Department," whereas the Act makes eligible only those incorporated cities and towns having a "regularly organized active Fire Department." The letter should be amended in this respect.

Honorable H. B. Satterfield, page 2

As pointed out above, the Act is silent as to the methods by which the Firemen's Pension Commissioner shall satisfy himself of the existence of the facts determining the eligibility of the board. There is no requirement, therefore, that the information incorporated in this letter shall be supported by an affidavit. However, the Commissioner is at liberty to require the information to be submitted in affidavit form.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (Signed) R.W. FAIRCHILD
Assistant

APPROVED OCT. 7, 1941

(Signed) GROVER SELLERS

FIRST ASSISTANT ATTORNEY GENERAL

RWF:db

APPROVED OPINION COMMITTEE

BY B.W.B. CHAIRMAN