



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD G. MANN
ATTORNEY GENERAL

Honorable John D. Reed, Commissioner
Bureau of Labor Statistics
Austin, Texas

Dear Sir:

Opinion No. 0-5622

Re: Payment of fees of peace officers for serving subpoenas for the Bureau of Labor Statistics out of contingent funds available in said department.

You have requested this department to prepare a form for subpoenas to be used by the Commissioner of the Bureau of Labor Statistics in summoning witnesses to give testimony in matters related to the duties of said bureau.

A copy of a suggested subpoena form is enclosed herewith.

You also request the opinion of this department as to whether fees of peace officers for serving such subpoenas may be paid out of any contingent funds available to the Bureau of Labor Statistics.

Article 1562, Vernon's Revised Penal Code, provides in part:

"The Commissioner of the Bureau of Labor Statistics shall have power to issue subpoenas, and take testimony in all matters related to the duties required of the said bureau,"

And Article 5150, Vernon's Revised Civil Statutes, contains a similar provision.

The current biennial appropriation to the Bureau of Labor Statistics (S. B. No. 332, Acts 48th Legislature, Reg.

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Sess., Ch. 400, p. 958) contains the following item of appropriation from the General Revenue Fund:

	"For the Years	
	"Beginning	Ending
	"September 1,	August 31,
	1943	1945

". . . .

"15. Equipment, Stationery, Printing, Postage, Office Supplies, Telephone, Telegraph, Express and Contingent Expense.....	\$3,000.00	\$3,000.00"
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It appears that the Legislature, in making this appropriation, had in contemplation the use of the term "contingent expense" in the sense of general items of expense not provided for specifically. State v. Kirtz, 144 N. E. 120, 124; 110 Ohio State 332. See also our Opinion No. O-1332. The costs of procuring service of subpoenas come within this class of expenses.

It is therefore the opinion of this department that the fees of peace officers for serving subpoenas for the Bureau of Labor Statistics may be paid out of said contingent fund.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *W. R. Allen*

W. R. Allen
Assistant

WRA:db

Enclosure

Received by Reed

