



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable John H. Winters  
Executive Director  
State Department of Public Welfare  
Austin 3, Texas

Dear Sir:

Opinion No. 0-6335

Re: The authority of the Department of Public Welfare to administer or supervise through its county or local workers, county funds appropriated for welfare purposes within the county and the county's authority to supplement the pay of the department workers.

Your letter to this department after quoting in full Sections 7 and 39 of Article 695c, V. A. C. S., asks this department's opinion on the following:

"Senate Bill 423, Acts of the 47th Legislature, Regular Session, made appropriations for the 'Division of Intake and Certification' as a part of the appropriation for the Department of Public Welfare. Senate Bill 84, Acts of the 48th Legislature, Regular Session, specifically repealed that portion of House Bill 423, Acts of the 47th Legislature, Regular Session, providing for an appropriation for the 'Intake and Certification Programs' administered by the Department of Public Welfare. No mention was made of repealing either Section 7 or Section 39 of House Bill 611, Acts of the 47th Legislature, as amended, and known as The Public Welfare Act of 1941.

"Did Senate Bill 84, in effect, also repeal Sections 7 and 39 of the Public Welfare Act of 1941?

"If these two sections of the Public Welfare Act did not become inoperative, we would like to

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submit for your consideration the following additional questions:

"(1) Can the Department of Public Welfare administer or supervise, through its county or local workers, county funds appropriated for welfare purposes within the county?

"(2) Can the Department of Public Welfare pay the salaries of the local workers engaged part time in administering Old Age Assistance, Aid to the Needy Blind, and Aid to Dependent Children, and part time in administering general assistance, provided that the funds for general assistance are appropriated from county or local funds?

"(3) Can the Department of Public Welfare pay a part of the salaries of the local workers, the remainder being paid out of county funds, if the worker is engaged in administering general assistance provided from local funds?

"If these two sections of the law were not rendered inoperative by Senate Bill 84 of the 48th Legislature, and if the Department is not able to administer general public assistance in local counties as set out in the foregoing questions, what is your interpretation of the two sections; and what is the responsibility of the Department of Public Welfare in respect to administration and supervision of general assistance?"

Section 7 of Article 695c is as follows:

"Sec. 7. The State Department is hereby designated as the state agency to cooperate with the Federal Government in the proper administration and distribution of Federal surplus commodities and any other Federal resources now on hand and available, or that may be provided in the future. The State Department is hereby designated as the State agency to administer or supervise referrals and certifications to the Works Project Administration, the National Youth Administration

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and the Civilian Conservation Corps. The State Department may cooperate with any city or county in any manner deemed necessary for the proper operation of these programs."

Section 39 of Article 695c is as follows:

"Sec. 39. No provision of this Act is intended to release the counties and municipalities in this State from the specific responsibility which is currently borne by those counties and municipalities in support of public welfare, child welfare, and relief services. Such funds which may hereafter be appropriated by the counties and municipalities for those services may be administered through the county or district offices of the State Department, and if so administered, shall be devoted exclusively to the services in the county or municipality making such appropriation."

Senate Bill 84, being Chapter 37, Acts of the 48th Legislature, 1943, amends the appropriations to your department,

". . . by repealing each, every and all appropriations and all language and words contained in that section of such bill designated 'Division of Intake and Certification' which is contained in that division of the bill dealing with the State Department of Public Welfare. No further expenditures shall be made by virtue of such appropriation, and neither the Comptroller nor the Treasurer shall sign or issue any warrants payable against such appropriation except for labor or services already performed or indebtedness already incurred.

". . . .

". . . The intent of this bill is to reduce the total appropriation to the State Department of Public Welfare by the amount remaining unexpended in the appropriation for the Division of Intake and Certification.

". . . .

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"The fact that there is now no necessity for the appropriation, and that economy should be practiced, . . ."

Senate Bill 84, being Chapter 37 of the Acts of the 48th Legislature, page 40, does not repeal Section 7 or Section 39 of the Public Welfare Act. Senate Bill No. 84, Chapter 37 does repeal the appropriation for the "Division of Intake and Certification" found on pages 1254 to 1264, inclusive, of the Appropriation Act of the 47th Legislature, Laws of 1941. Sections 7 and 39 are still a part of the Public Welfare Act of 1941.

We answer your first question in the affirmative. The Department of Public Welfare, with the county's consent, can administer or supervise, through its county or local workers, county funds appropriated for welfare purposes within the county. Such expenditures are made for the purpose of aiding and cooperating with the agencies of the State and the Federal Government engaged in the administration of aid to the needy people of the State of Texas.

In our conversation with you we gather that your second and third questions are primarily concerned with the part payment of salaries by the county to your local workers. Although, as we have pointed out above, your department is authorized by statute to deal with local welfare problems, we do not find any specific State appropriation from which salaries or portions of salaries may be paid out of county funds. The authority of law is necessary to an expenditure of public funds. The administration of county funds, when requested by the county, is part of the work of your department and its employees. Additional or supplemental salaries are not to be paid to State employees, unless expressly authorized by statutes. The salary fixed by the Legislature is the only salary an employee can receive; and that to be paid only by the State. Our Constitution, Article 8, Section 6, provides that, "No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law." The Constitution (Art. 3, Sec. 44) instructs "The Legislature (to) provide by law

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for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution." We are aware of the fact that you do receive certain Federal administrative funds but since their use would be limited to the terms of the Federal grant, we do not undertake to pass upon your authority to use Federal funds for those purposes.

We believe that our answers to your inquiry above enumerated make unnecessary for us to answer the questions propounded in the concluding paragraph of your letter. The provisions of Section 39 do not "release the counties and municipalities in this State from the specific responsibility which is currently borne by these counties and municipalities in support of public welfare, child welfare, and relief services." The funds which may be appropriated by the counties and municipalities for these services may be administered, as above stated, by the Department of Public Welfare through its county and local workers within the county where these funds have been appropriated.

Yours very truly

ATTORNEY GENERAL OF TEXAS

*David Wuntch*

By

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Assistant

APPROVED JUN 14, 1945

*Charles F. Kelley*  
FIRST ASSISTANT  
ATTORNEY GENERAL

DW:MP

