



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Abner L. Lewis, Member  
State Board of Pardons and Paroles  
Austin, Texas

Dear Sir:

Opinion No. 0-6857

Re: Whether the porter acting  
as Custodian of Files for  
the Board of Pardons and  
Paroles is entitled to an  
increase in salary.

Your request for our opinion on the hereinabove captioned matter has been received by this department. We quote from your letter as follows:

"The negro porter acting as Custodian of Files for the Board of Pardons and Paroles was recommended by the Board of Control for a salary of \$864.00 per annum. The same amount was recommended for all porters employed in the Capitol. When the Budget was acted upon in the House of Representatives and Senate, it was decided and the Legislature did increase said salary to \$900.00 per annum. The correction was made on all porters of the Departments listed except the porter for the Board of Pardons and Paroles, which mistake, no doubt, occurred because of the fact that he was classed as Custodian of Files.

"It so happens that this porter has had long service as a porter for the State and, of course, is entitled to at least as much as any other porter, if not more, by reason of his seniority of service. It occurs to the members of the Board of Pardons and Paroles that this being purely a technical over-sight, that the Legislature also intended that his salary should be \$900.00 per annum; otherwise, it would be a discrimination.

"The Board will appreciate an opinion and advice as to how to rectify this discrepancy."

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We quote from Senate Bill No. 317, Acts of the 49th Legislature, 1945, Regular Session, (which is the General Appropriation Bill for the executive and administrative departments of the State Government), as follows:

**\*BOARD OF PARDONS AND PAROLES**

Salaries	For the Years Ending	
	August 31, 1946	August 31, 1947
1. Board member	\$ 4,200.00	\$ 4,200.00
2. Board member	4,200.00	4,200.00
3. Board member	4,200.00	4,200.00
4. Chief clerk and bookkeeper	1,980.00	1,980.00
5. Assistant clerk and secretary	1,725.00	1,725.00
6. Stenographer, man qualified as court reporter	2,400.00	2,400.00
7. Stenographer, man qualified as court reporter	1,980.00	1,980.00
8. Stenographer	1,553.00	1,553.00
8a. Stenographer	1,553.00	1,553.00
9. Stenographer and recommenda- tion clerk	1,980.00	1,980.00
10. Investigator	1,980.00	1,980.00
11. Investigator	1,980.00	1,980.00
12. <u>Custodian of files</u>	<u>864.00</u>	<u>864.00</u>
<b>Total Salaries</b>	<b><u>\$30,595.00</u></b>	<b><u>\$30,595.00</u></b>
<b>Maintenance and Supplies</b>		
13. Stationery, printing, binding office supplies and miscellaneous expense, contingent	1,250.00	1,250.00
14. Postage and box rent	600.00	600.00
15. Telephone and telegraph	350.00	350.00
16. Traveling expenses	2,700.00	2,700.00
17. Office rent	2,000.00	2,000.00
17a. Heat	100.00	100.00
<b>Total Maintenance and Mis- cellaneous</b>	<b>7,000.00</b>	<b>7,000.00</b>
<b>GRAND TOTALS, BOARD OF PARDONS AND PAROLES</b>	<b>\$37,595.00</b>	<b>\$37,595.00"</b>

(underscoring ours)

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Section 6, Article VIII of the Texas Constitution reads in part as follows:

"No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, . . . ."  
(underscoring ours)

Opinion No. O-4222-A, written by this department reads in part as follows:

"Your attention is directed to the fact that the Constitution of the State of Texas prohibits money being withdrawn from the Treasury except pursuant to appropriation made by the Legislature, and further that no appropriation shall be made for a longer period than two years. Constitution, Article VIII, Section 6. Under these provisions, it follows that where the Legislature has failed or refused to appropriate moneys for expenditure for particular purposes, the accounting officers of this State have no authority to issue warrants upon the Treasury in payment of expenditures made for such purposes."

A careful reading of the above appropriation Act reveals that the Legislature did not make a specific appropriation for the salary of a porter for the Board of Pardons and Paroles as was done in the instance of the other state departments, but on the contrary it appropriated the sum of \$864.00 per annum for the salary of the Custodian of files for the Board of Pardons and Paroles.

In view of the foregoing authorities, it is our opinion that when a person acts as Custodian of files for the Board of Pardons and Paroles that he can only receive a maximum salary of \$864.00 per annum.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

BY

*J. C. Davis, Jr.*  
J. C. Davis, Jr.  
Assistant

APPROVED OCT 3, 1945

*John C. Davis*

JCD: ATTORNEY GENERAL OF TEXAS

