OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Hon. Maurine Moore, Commissioner
Bureau of Labor Statistics
Austin, Texas

Dear Mrs. Moore:

Opinion No. O-7243
Re: Whether the State can defray the expenses of purchase and cleaning and pressing of coveralls for boiler inspectors

We acknowledge receipt of your request for our opinion as to whether the State may pay the expenses of purchase and cleaning and pressing of coveralls for boiler inspectors.

Article 5221e, Section 9, Vernon's Annotated Civil Statutes, reads in part as follows:

> "* * * and in addition thereto all inspectors shall be allowed their actual expenses incurred in the performance of their official duties, and for such equipment as may be deemed necessary by the Commissioner. All expenses incident to carrying out the provisions of this Act shall be paid out of the funds in the State Treasury to the credit of the State Boiler Inspection Fund on vouchers or warrants issued and signed by the Commissioner and the Comptroller of Public Accounts." * * *

We quote from Senate Bill No. 317, Acts of the 49th Legislature, 1945, Regular Session (which is the general appropriation for the executive and administrative departments of the State Government for the two year period beginning September 1, 1945, and ending August 31, 1946) as follows:

"BUREAU OF LABOR STATISTICS"

"Boiler Inspection Division
(Out of Boiler Inspection Fund)
Salaries:

NO COMMUNICATION IS TO BE CONSTRUED AS A DEPARTMENTAL OPINION UNLESS APPROVED BY THE ATTORNEY GENERAL OR FIRST ASSISTANT

		"For the Years Ending August 31, 1946	August 31, 1947
"25.	Commissioner, part salary	$1,200.00	$1,200.00
"26.	Chief boiler inspector	$3,000.00	3,000.00
"27.	Secretary-file custodian	1,725.00	1,725.00
"28.	Auditor, part salary	945.00	945.00
"29.	Stenographer	1,553.00	1,553.00
"30.	Inspector	2,700.00	2,700.00
"31.	Inspector	2,700.00	2,700.00
"32.	Inspector	2,700.00	2,700.00
"33.	Inspector	2,700.00	2,700.00
	Total Salaries	$19,223.00	$19,223.00
	"Maintenance and Miscellaneous		
"34.	Travel Expense	$6,625.00	$6,625.00
"35.	Postage, stationery, telegraph, telephone, bonds for inspectors and contingent expenses	5,500.00	5,500.00
	Total Maintenance and Miscellaneous	$12,125.00	$12,125.00
	Total, Boiler Division	31,183.00	31,183.00
	GRAND TOTALS, BUREAU OF LABOR STATISTICS	$101,963.00	$101,968.00

"Subject to the limitations set forth in the provisions appearing at the end of this Act. All appropriations made herein for the Boiler Division shall be paid out of fees received by virtue of Article 5221-C, Revised Civil Statutes, 1925, and any amendments thereto."

After a careful study of the above quoted portion of Section 9, Article 5221c, supra, we do not think that the same is sufficient pre-existing law to authorize the Legislature to appropriate money for defraying the expenses of purchase and cleaning and pressing of coveralls for boiler inspectors; however, it is not necessary for us to pass on this question since the 49th Legislature did not attempt to appropriate any sum of money for said purposes. Your attention is directed to the fact that Section 6 of Article VIII of the Texas Constitution prohibits money being withdrawn from the Treasury of this State except pursuant to appropriation made by the Legislature, and under this provision, it follows that where the Legislature has failed or refused to appropriate moneys for expenditures for particular purposes, the accounting officers have no

authority to issue warrants upon the treasury in payment of expenditures made for such purposes.

In view of the foregoing, it is the opinion of this department that the State of Texas cannot defray the expenses of purchase and cleaning and pressing of coveralls for boiler inspectors.

Yours very truly

APPROVED JUN 1 1945

ATTORNEY GENERAL OF TEXAS

(Signed) Carlos C. Ashley

FIRST ASSISTANT
ATTORNEY GENERAL

By (Signed)
J. C. Davis, Jr.
Assistant

JCD:dmj:jm

THIS OPINION CONSIDERED AND APPROVED
IN LIMITED CONFERENCE.