



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

June 12, 1947

Honorable Geo. H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas                      Opinion No. V-248

Re: Effective date  
of appropriation  
provided in S. B.  
351

Dear Mr. Sheppard:

Your letter request reads as follows:

"Senate Bill No. 351, Acts of the 50th Legislature, increases the salary of the Assistant District Attorney of the 72nd Judicial District of Texas and authorizes said salary to be paid out of the General Revenue Fund of the State. This bill carried the emergency clause and passed each House by a record vote, making it effective upon May 20, the date it was approved by the Governor. The bill also carries the Comptroller's certificate to the effect that the amount appropriated therein comes within the estimated available revenue.

"But upon reading Section 3, there is some doubt in this department as to whether the bill in fact makes an appropriation for the two-year period beginning May 20, 1947, and ending May 20, 1949.

"I shall thank you to advise whether or not the bill makes the appropriation available immediately."

You also furnished us with a copy of S. B. 351. This copy does not show that it passed the House by the necessary emergency vote. It also contains a Committee Amendment, that strikes out all of Section 3, and inserts in lieu thereof an entirely different provision as to the payment of the salary of said assistant.

However, we examined S.B. 351 as signed by the Governor and find that it finally passed both houses by the necessary emergency vote, and that such bill passed as originally enacted by the Senate without such amendment.

Section 3 of S.B. 351 reads as follows:

"Sec. 3. The Assistant District Attorney in the 72nd Judicial District of Texas shall receive an annual salary of Thirty-Eight Hundred (\$3800.00) Dollars, payable monthly, out of the General Revenue Fund of the state not otherwise appropriated, upon the sworn account of such Assistant District Attorney, approved by the District Attorney of said 72nd Judicial District."

Section 6 of Article VIII of the Texas Constitution provides that:

" . . . 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, except by the first legislature to assemble under this constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth legislature. . . ."

The question arises, does Section 3 make an appropriation to pay the salary of said Assistant District Attorney? It is clear that an appropriation can be made other than in the general appropriation bill. As stated by the Supreme Court in *Pickle v. Finley*, 44 S.W. 480: "It is also true that no specific words are necessary in order to make an appropriation; and . . . that an appropriation may be made by implication when the language employed leads to the belief that such was the intent of the legislature." The Court in *Nichols v. Comptroller*, 4 Stew. and P. 154 held that an appropriation had been made when the law which fixed the salary in question was couched in the following language: "A salary of \$1,749, to be paid quarterly out of any money not otherwise appropriated".

The Supreme Court in Pickle v. Finley (supra) in approving said holding said: "The phrase 'not otherwise appropriated' means not appropriated, to any other purpose than here is appropriated, and clearly implies an intent to make a present appropriation."

It is, therefore, our opinion that S.B. 351 makes the appropriation available immediately.

SUMMARY

S.B. 351 makes an appropriation of Seventy Six Hundred (\$7600.00) Dollars to pay the salary of the Assistant District Attorney of the 72nd Judicial District of Texas for the two year period beginning on the 20th day of May, 1947, and ending on the 19th day of May, 1949.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By



W. V. Geppert  
Assistant

WVG/lh

APPROVED:



PRICE DANIEL  
ATTORNEY GENERAL