



**THE ATTORNEY GENERAL  
OF TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

**AUSTIN, TEXAS**

August 18, 1950

Mrs. Herbert Gambrell, Chairman  
Texas Library and Historical Commission  
Fair Park  
Dallas 1, Texas

Opinion No. V-1088.

Re: Availability of Item 16 of the appropriations for the current biennium to the Texas Library and Historical Commission for the payment of travel expense. Acts 51st Leg., R.S. 1949, ch. 615, p. 1208.

Dear Mrs. Gambrell:

We quote from your request for an opinion as follows:

"The Texas Library and Historical Commission would appreciate a ruling regarding the chargeability of travel expense of members of the Commission to specific appropriation items made to the Commission by the Legislature. . . .

"The Commission's need for a current ruling grows out of these circumstances: the last regular session of the Legislature made an appropriation of \$75,000 to the Texas Library and Historical Commission for 'Renovation and Reorganization' of the Texas State Library. (item 16). Ordinary travel expense of Commissioners and staff are normally charged to item 17, which specifically mentions 'travel,' along with a number of other types of operating expense.

"Since item 17 is the main operating account of the Library, covering all ordinary office maintenance expenditure (such as telephone, stationery, supplies, etc.) funds in it

are stringently limited by the practical necessities of ordinary operation. In other words, there would be some handicap to the Library in allocating to the ordinary travel account of item 17, travel expense of Commissioners transacting elements of the unusual and complex business arising in connection with the renovation and reorganization program. It would appear that such necessary travel by a member or members of the governing body of the institution is a contingency properly covered by the word 'contingencies' in the appropriation made for Renovation and Reorganization, item 16.

"I have recently asked two members of the Commission to handle some essential duties in connection with the renovation and reorganization program. These members are Mr. John Gould of Wichita Falls, Vice Chairman of the Commission, and Mr. L. W. Kemp of Houston, whose knowledge of and interest in the Texas State Archives, which are particularly affected by the renovation and reorganization program, makes his service very valuable to us.

"Mr. Kemp and Mr. Gould have agreed to render the Commission their service and I want to be familiar with the legal status of their reimbursement for travel, so that proper procedure may be followed, especially in the charging of their travel expenses to specific items of our appropriation.

"It would be much appreciated if we might have your ruling on these questions:

"1. May a Commissioner's expense for travel undertaken specifically to transact business of the renovation and reorganization program be charged to item 16, Renovation and Reorganization, without regard to the residual balance in item 17, the general operating account which specifically mentions travel?

"2. If not, then if the residual balance in item 17 be insufficient for reimbursement of

such travel expense, may such expense then be charged to item 16, Renovation and Reorganization, or any other item of the appropriation made to the Commission?"

The appropriations for the support and maintenance of the respective departments and agencies of the State for the current biennium beginning September 1, 1949, and ending August 31, 1951, are contained in the Departmental Appropriation Bill of 1949 (H.B. 322, Acts 51st Leg., R.S. 1949, ch. 615, p. 1208). Section 1 of this Act contains specific appropriations to each of these departments and agencies, including the Texas Library and Historical Commission, for each year of the current biennium. These specific appropriations are followed by "General Provisions," including Sections 2 through 38, which contain many restrictive provisions limiting and controlling the expenditure of the appropriations contained in Section 1 to the respective departments and agencies. Therefore, it becomes necessary in answering your questions to not only look to the specific items of appropriations with which we are here concerned, but to any general provision which may restrict or limit the expenditure thereof.

The appropriations to the Commission for the "Main Library" are found on page 1281 of the Act. Under the sub-head "Maintenance and Miscellaneous" appear Items 16 and 17 to which you have directed our attention. These Items read respectively as follows:

"For the Years Ending	
August 31,	August 31,
1950	1951

16. Renovation and reorganization, including painting, repairing, floor coverings, lighting equipment, purchase or rentals of office machines, exhibit cases, care and repair of paintings and statuary, extra help necessary to project, <u>contingencies</u>	\$50,000.00	\$25,000.00
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For the Years Ending  
August 31, 1950      August 31,  
1951

17. Stationery, supplies, printing, postage, ex- press, freight, tele- phone, telegraph, furn- iture and equipment, purchase or rental of office machines, bond premiums, <u>travel ex- pense</u> , automotive equipment and mainten- ance, contingencies (Emphasis added)	\$10,000.00	\$10,000.00"
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The provisions of paragraph (b), Section 15, which especially apply to the appropriations contained in Items 16 and 17, are:

"The appropriations herein provided are to be construed as the maximum sums to be appropriated to and for the several purposes named herein, and the amounts are intended to cover, and shall cover the entire cost of the respective items and the same shall not be supplemented from any other sources. . . and, except as otherwise provided, no other expenditures shall be made, nor shall any other obligations be incurred by any department of this State; provided, however, that nothing herein shall prevent any department head from paying less than the maximum amount set forth herein for any salaried positions."

The above quoted restrictive language has been included in the respective Departmental Appropriation Bills for many years. This office has heretofore answered questions calling for construction and application of this identical language to specific appropriations. A.G. Opinions Numbers O-1294, O-1321, O-1332, O-5899, V-1015.

The holdings in the above mentioned opinions in so far as applicable to your questions may be summarized as follows:

1. When a department is provided with a specific item of appropriation for "travel expenses," or for travel and other expenses, the amount so provided is the maximum which may be expended for "travel expense," and may not be supplemented from any source, unless the appropriation bill specifically so provides.

2. When a department has not been provided with a specific appropriation for "travel expenses" or for travel and other expenses, "travel expense" may be paid from an item of appropriation for "contingencies" or for "contingencies" and other expenses, unless the appropriation bill specifically prohibits such expenditure.

Item 17 contains appropriations for "travel expense," and numerous other purposes. Item 16 contains appropriations for "contingencies" and other purposes, none of which is for "travel expense." The appropriation bill in which these items are found does not specifically authorize the payment of traveling expenses incurred by members of the Commission, or any of its employees, out of "contingencies" or the appropriations contained in Item 16.

In view of the foregoing, you are respectfully advised that travel expenses incurred by a member of the Texas Library and Historical Commission in connection with the "Renovation and Reorganization" program, provided for in Item 16 of the appropriations to the Commission for the current biennium, cannot be paid out of that item of appropriations, even though "the residual balance in Item 17 be insufficient for reimbursement of such travel expense." The only item of appropriations available for the payment of traveling expenses incurred by members of the Commission and employees of the Commission is Item 17.

#### SUMMARY

Travel expenses incurred by a member of the Texas Library and Historical Commission in connection with the "Renovation and Reorganization" program, provided for in Item 16 of the appropriations to the Commission for the current biennium cannot be paid out of the appropriations contained in that item, even though the residual balance in Item 17 be insufficient for reimbursement of such travel

expenses. The only item of appropriations available for the payment of traveling expenses of members and employees of the Commission is Item 17 which is a specific appropriation for "travel expense." Acts 51st Leg., R.S., 1949, ch. 615, p. 1208; A.G. Opinions Nos. O-1294, O-1321, O-1332, O-5899, V-1015.

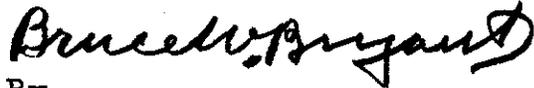
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Yours very truly,

PRICE DANIEL  
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