



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

October 29, 1953

Hon. Garland A. Smith, Chairman
Board of Insurance Commissioners
Austin, Texas

Letter Opinion No. MS-105

Re: Effect of Section 5f of Article VI, Chapter 81, Acts of the 53rd Legislature on issuing salary warrants under Item No. 51 of the current appropriations to the Fire Insurance Division.

Dear Mr. Smith:

You have asked whether you may pay salaries from Item No. 51 of the appropriations to the Fire Insurance Division in view of the restrictions contained in Section 5f of Article VI of the current general appropriation act.

The opinion of this office on the meaning and application of Section 5f is stated in Opinion No. S-109 (1953) which is attached. In that opinion we concluded that Section 5f restrictions apply only to appropriation items of the types listed and to other items of the same general nature or class as those listed. We also stated that whether a given item is of the same general nature or class must be determined from the circumstances of each case.

We have examined Item No. 51 and have concluded that it is not of the same general nature or class as those listed in Section 5f. Item No. 51 is for "the payment of expenses incident to revising, editing, reprinting and distributing the Texas General Basis Schedules of fire and windstorm insurance rates as provided in Article 4882 of the Revised Civil Statutes [Art. 5.29 of the Insurance Code], and other matters incident thereto . . ." Cf. Att'y Gen. Op. No. 0-596 (1939). This language shows that Item No. 51 is of the same character as Item No. 18 to the Life Insurance Division which is discussed in the attached opinion.

Therefore, you are respectfully advised that Section 5f does not apply to Item No. 51 to the Fire Insurance Division and that salaries may be paid from that item.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
Phillip Robinson
Assistant.

PR:am/cm