



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

December 10, 1957

Mr. Frank M. Jackson
Executive Secretary
Teacher Retirement
System of Texas
Austin, Texas

Opinion No. WW-306

Re: Availability to the Teacher Retirement System of any appropriation from which certain employees may be paid during the present biennium.

Dear Mr. Jackson:

Your request for an opinion concerns the authority of the Board of Trustees of the Teacher Retirement System to pay for the services of junior clerks, microfilm clerks, microfilm checkers and multilith operators out of the funds appropriated to the Teacher Retirement System in House Bill 133, Acts 55th Legislature, Regular Session, 1957, Chapter 385, page 1077.

In the appropriation for the Teacher Retirement System, there appears the following item of appropriation:

	For the Years Ending	
"Other Expenses:	August 31, 1958	August 31, 1959
"36. For other than administration costs provided above, there is hereby appropriated to the Teacher Retirement System all moneys collected and received by the System under the provisions of Chapter 470, Regular Session, Forty-fifth Legislature, (S.B. 47) or Chapter 530, Regular Session, Fifty-fourth Legislature, (S.B. 290) and any balances on hand at the end of each preceding fiscal year, together with all sums received by virtue of Chapter 184, Forty-seventh Legislature, (H.B. 8). These appropriations are estimated as follows:		
Teachers' Contributions	22,500,000	23,500,000
Out of Tax Allocation (Omnibus Tax Fund)	23,009,773	23,500,000
Interest Earned	7,500,000	8,100,000"

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The above general appropriation, following the several specific items of appropriation, is sufficient to appropriate all unexpended balances in the expense fund set up by subsection 7 of Section 8 of Senate Bill 47, Acts 45th Legislature, R.S. 1937, Chapter 470, p. 1178 at p. 1193 (Art. 2922-1, V.C.S.), as amended, as "the fund from which the expenses of administration and maintenance of the Retirement System shall be paid". This is a statutory fund derived from the \$2.00 per year membership fee exacted from the several members of the Teacher Retirement System under the Teachers Retirement Act. This fund, as one of the several funds established "under the provisions of Senate Bill No. 47 . . . by the Regular Session of the 45th Legislature", is appropriated by the general provision set out above "For other than administration costs provided above". Attorney General's Opinion No. V-1288 (1951).

Our construction of the phrase "For other than administration costs provided above" contained in item 36 is that the administrative costs specifically provided for in the various preceding line items cannot be supplemented from the unexpended expense fund. Since the positions of junior clerks, microfilm clerks, microfilm checkers and multilith operators are not specifically provided for in the line items, same constitutes a cost of administration "other than provided for above". This conclusion finds substantial support in Attorney General's Opinion V-1288, supra. This opinion recognized the authority of the Retirement System to pay costs of administration from the general item in the appropriation bill, even though costs of administration were specifically provided for in the various line items.

We are advised that in prior years operating expenses of the System have consistently been paid, in part, from the general item. Although the language of the latter has varied from time to time, we are of the opinion that the Legislature has evinced no clear intent that this customary practice should be substantially altered.

You are accordingly advised that it is our opinion that the salaries of junior clerks, microfilm clerks, microfilm checkers and multilith operators may be paid out of the Expense Fund set up by Subsection 7, Section 8, Article 2922-1, V.C.S., as amended, and appropriated in full by House Bill 133, Acts 55th Leg. R.S. 1957, Chapter 385, page 1077.

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SUMMARY

The Board of Trustees of the Teacher Retirement System is authorized to pay the salaries of junior clerks, microfilm clerks, microfilm checkers, and multilith operators out of the Expense Fund set up by Subsection 7, Section 8, Article 2922-1, V.C.S., and appropriated in full by House Bill 133, Acts 55th Legislature, R.S. 1957, Chapter 385, page 1077.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
Leonard Passmore
Assistant

LP:pf:wb

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman
J. C. Davis, Jr.
Ralph R. Rash
B. H. Timmins, Jr.

REVIEWED FOR THE ATTORNEY GENERAL

BY: James N. Ludlum,
First Assistant.