



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

January 29, 1960

Mr. D. C. Greer
State Highway Engineer
State Highway Building
Austin, Texas

Opinion No. WW-790

Re: Whether the provision in the Appropriation Bill (H.B. 4, 56th Leg., 3rd Called Session, 1959), authorizing service and safety awards, and transportation to receive them, is constitutional.

Dear Mr. Greer:

Your request for an opinion from this office concerns the following question: Is the State Highway Commission authorized to award pins and certificates for longevity of service and safety award pins and certificates for safe operation of State equipment, and to authorize the transportation of an employee with twenty-five years or more of service from designated headquarters to Austin to receive such longevity award?

The General Appropriation Bill to the Texas Highway Department provides in House Bill 4, Acts of the 56th Legislature, Third Called Session, 1959, Chapter 23, page 442 at 590, as follows:

"As compensation in addition to that authorized to be paid above, the Highway Department is authorized to purchase and give to its employees at periodic intervals, under such rules and regulations as have been or may be adopted by the State Highway Commission, service award pins and certificates for longevity of service and safety award pins and certificates for safe operation of state equipment; and the Department is also authorized as further additional compensation to provide, at state expense, for the transportation of employees with 25 years or more of service from their designated headquarters to Austin and return at intervals of not less than 5 years for the purpose of appearing before the State Highway Commission to receive said longevity service awards."

Section 51 of Article III of the Constitution of Texas provides, in part, as follows:

"The Legislature shall have no power to make any grant or authorize the making of any grant of public

moneys to any individual, association of individuals, municipal or other corporations whatsoever . . ."

The constitutional provision quoted above, prohibits "gratuitous disposition of the state's money, property, or contractual rights." Rhoads Drilling Company v. Allred, 123 Tex. 229, 70 S.W.2d 576 (1934); Friedman v. American Surety Company of New York, 137 Tex. 149, 151 S.W.2d 570 (1941). However, it is clear that the Legislature is not relegated to compensating employees only by yearly or monthly sums of money. It is permissible to include other items as a portion of an employee's compensation. Examples are readily found where certain employees receive housing, laundry, maid service, etc. We are not faced with the same considerations involved in Attorney General Opinion WW-153 (1957) because we here have a specific legislative appropriation establishing these awards as part of the eligible employees' compensation. Senate Bill 43, Acts 56th Legislature, Third Called Session, 1959, Chapter 85, page 144, is the general law setting salaries and compensation of state employees at the amount established in the General Appropriation Bill. In our opinion, the awards in question are perquisites of employment directly related to and in payment of the eligible employees' service to the state. They, therefore, are not prohibited gratuities within the meaning of Section 51 of Article III of the Constitution of Texas.

It remains to determine whether such awards are prohibited by Sec. 44 of Article III of the Constitution of Texas. Said section reads as follows:

"Sec. 44. The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into, for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State, unless authorized by pre-existing law. (Emphasis added.)

In our opinion the awards in question are not prohibited by the above quoted constitutional provision. Just because the awards are based on the length of the employee's service, it does not follow that the awards are "additional compensation" in payment for past service after such service has been performed. It is within the discretion of the Legislature to determine that a state employee is more valuable to the State today because of his experience gained by long and faithful past performance. This is the

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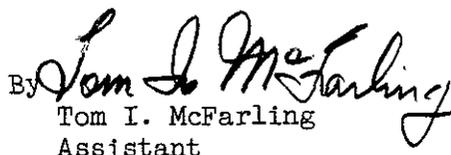
very foundation of longevity payments authorized for various state employees. Of course, if an award were to be attempted from public funds to a former employee no longer connected with the State, Sections 44 and 51 of Article III would prohibit the same. It is an entirely different matter, however, to recognize a current employee's experience record and to increase his present and future compensation accordingly. The Legislature has seen fit to provide a portion of that increased compensation in the form of the awards and presentations in question. We find no constitutional prohibition to this most worthy recognition.

SUMMARY

The Texas Highway Department has authority to purchase longevity and service award pins and certificates, and to pay the expenses incurred in traveling from different points in Texas for the purpose of receiving such awards, there being a specific appropriation for such purpose.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
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APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL
BY:

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