



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

September 21, 1961

Honorable Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin 11, Texas

Opinion No. WW-1152

Re: Construction of riders in
the General Appropriation
Bill providing for longev-
ity pay to hourly employees
of the Highway Department.

Dear Mr. Calvert:

Your request for an opinion reads in part as follows:

"Senate Bill No. 1, Acts of the 57th Legislature, First Called Session, Article III provides for longevity pay to hourly employees of the Highway Department. This provision is found on page III-95 of the above Act which is the biennium appropriation bill.

"Due to the above provisions the following questions have arisen:

"1. Is there pre-existing law for this appropriation?

"2. Would payment of this longevity violate any provision of the Texas Constitution?"

The rider referred to in your request provides as follows:

"It is expressly provided that out of item 11 above the State Highway Department may pay longevity to hourly employees of the Department whose service to the Department has not been interrupted by periods of more than six months. The amounts which may be paid to each individual employee shall be

based on the total length of service within the Department, according to the following schedule:

"5 years	\$ 5 per month
10 years	10 per month
15 years	15 per month
20 years	20 per month"

Section 44 of Article III of the Constitution of Texas provides as follows:

"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 anyone in the name of the State, unless authorized by pre-existing law."

The applicable provision of Section 51, Article III, Constitution of Texas, provides 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; . . ."

Section 6 of Article XVI of the Constitution of the State of Texas provides as follows:

"No appropriation for private or individual purposes shall be made. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law."

Honorable Robert S. Calvert, page 3. (WW-1152)

In the rider to the General Appropriation Bill the Legislature has prescribed four classifications of employees compensated on an hourly basis rather than calling for additional compensation for services already performed. In other words it is our opinion that the Legislature has chosen to determine the classification in which such employees should be placed shall be on the basis of prior experience. You are, therefore, advised, in answer to your first question, that Chapter 1, Title 116 of the Revised Civil Statutes of Texas, 1925, as amended, creating the Highway Department, constitutes the pre-existing law for the above quoted rider.

In answer to question No. 2, you are advised that this rider is not in violation of Section 44 or Section 51 of Article III of the Constitution of Texas nor Section 6 of Article XVI of the Constitution of Texas nor any other provision of the Constitution of Texas for the reason that it is an appropriation for the payment of compensation for services currently rendered the State of Texas by employees of the State.

S U M M A R Y

A rider in the General Appropriation Bill prescribing a schedule of increased compensation based on years experience is constitutional since the Legislature has the authority to use this method of classifying employees.

Yours very truly,

WILL WILSON
Attorney General of Texas

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APPROVED:
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