



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 3, 1962

Mr. Joe D. Carter, Chairman
Texas Water Commission
Box 2311 Capitol Station
Austin 11, Texas

Opinion No. WW-1327

Re: Whether the Chief Engineer
of the Texas Water Com-
mission is entitled to
receive actual expenses
when traveling on state
business.

Dear Mr. Carter:

In your recent letter you have requested that this
office render its opinion upon the following question:

". . .whether or not the Chief Engineer
of the Texas Water Commission is entitled to
his actual expenses when traveling on business
for the State?"

Section 35 (a) of Article V of Senate Bill No. 1,
Acts of the 57th Legislature, First Called Session, 1961,
which is the current General Appropriation Act provides as
follows:

"Executive heads of State agencies,
including the Executive Director of the
Legislative Council, shall be reimbursed
for their actual meals, lodging and incidental
expenses when traveling on official business
either in or out of the State."

There is currently appropriated to the Texas Water
Commission the sum of \$52,000 for the year ending August 31,
1962, and \$52,000 for the year ending August 31, 1963 to be
expended for "Travel Expense and operation and maintenance of
trucks."

Consequently there are presently appropriated funds
out of which the Chief Engineer may be reimbursed his actual
travel expenses while on state business if the Chief Engineer
may be considered to be included within the scope of the term
"Executive heads of State agencies . . ." as used in the General
Appropriation Act.

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House Bill No. 12, Acts of the 57th Legislature, Third Called Session, 1962, changed the name of the Board of Water Engineers to the Texas Water Commission and prescribed the duties, powers and function of the Commission and the Chief Engineer.

The duties which the Legislature imposed upon the Chief Engineer are set forth at great length in Section 4 of House Bill No. 12 and it will suffice for our purposes here to merely observe that such duties consist of the carrying out and implementation of existing statutory provisions relating to water resources as well as the performance of certain duties in an advisory and consultant capacity to the Commission.

Section 3 of House Bill 12 provides that:

". . . Except as the Commission may otherwise direct, the Chairman shall be the chief administrative officer of the Commission with authority to employ, assign and reassign duties, adjust salaries of, and discharge from employment, all employees of the Commission within the limits of appropriation bills enacted by the Legislature and to direct the general administration of the office of the Commission. . . ."

Section 5 of House Bill 12 provides that:

"The Commission may, by means of administrative orders which shall be recorded in its minutes, delegate to the Chief Engineer the authority to employ, assign, reassign, promote, demote and adjust salaries of and discharge from employment, all employees and personnel authorized by the appropriation bills enacted by the Legislature to be employed for the performance of the duties of the Commission which are herein made the responsibility of the Chief Engineer under the direction of the Commission, including the authority to approve payrolls for personnel under his supervision, purchase requisitions for necessary supplies, equipment and services, and vouchers in payment therefor; provided, however, that all such actions relating to personnel shall be made in conformity with the Position Classification Act of 1961, as amended, and in conformity with the limitations set forth in appropriation bills enacted by the Legislature."

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You state in your letter that the Commission has by means of administrative order delegated to the Chief Engineer those duties and functions provided for in Section 5. This action by the Commission, when considered in conjunction with the above quoted portion of Section 3, constitutes an effective designation of the Chief Engineer as Chief Administrative Officer of the Commission in addition to his other duties as prescribed by Section 4.

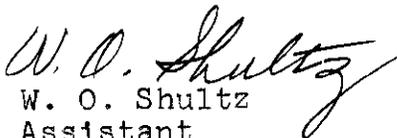
In our opinion the phrase "Executive heads of State agencies" means those officials of a state agency who are charged with the administration, implementation and execution of the laws pertaining to such agency and, under the facts here presented, the duties which the Chief Engineer is now charged with performing qualify him as an executive head of the Texas Water Commission and as such entitle him to be reimbursed for his ". . . actual meals, lodging and incidental expenses when traveling on official business either in or out of the State." Therefor your question is hereby answered in the affirmative.

S U M M A R Y

The duties which the Chief Engineer of the Texas Water Commission is now charged with performing qualify him as an executive head of the Texas Water Commission and entitles him to receive his actual travel expense while on state business.

Very truly yours

WILL WILSON
Attorney General of Texas

By: 
W. O. Shultz
Assistant

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APPROVED:
OPINION COMMITTEE
W. V. Geppert, Chairman

Jerry Roberts
Arthur Sandlin
Norman Suarez

REVIEWED FOR THE ATTORNEY GENERAL
BY: Houghton Brownlee, Jr.