



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 30, 1962

Admiral H. R. Nieman, Jr.
Executive Director
State Building Commission
Austin, Texas

Opinion No. WW-1429

Re: Construction of the term
"allocated" as used in
reference to Item 12 of
the current appropriation
to the State Building
Commission.

Dear Admiral Nieman:

In view of certain language contained in Senate Bill 1, Acts of the 57th Legislature, 1st Called Session, 1961, concerning Item 12 of the appropriation to the State Building Commission, you have requested our opinion on the following question:

"It is requested that you render an opinion defining the terms 'allocated and allocation' as they appear in the legislative terminology, expressing intent, such that they do not convey in any sense the authoritative and responsible position of the one denoted by the words 'appropriate or appropriation.'"

Senate Bill 1, Acts of the 57th Legislature, 1st Called Session 1961, (current Appropriation Bill), contains the following language in the appropriation to the State Building Commission:

	"For the Years Ending	
	August 31,	August 31,
	1962	1963

"12. For Capitol renovation, including renovating vacated office space, remodeling the chamber and gallery of the House of Representatives, and any other modernization of the Capitol Building . . . 250,000

U.B.

". . .

"To accomplish the work set forth in Item 12 above, it is the intent of the Fifty-seventh Legislature that the appropriation made in said item shall be allocated to the Board of Control as provided for in Sec. 8, Chapter 514, Acts 1955, Fifty-fourth Legislature, and it is further provided that remodeling the House of Representatives or providing office space for members of the House shall be undertaken only after consulting with the Speaker of the House." (Emphasis added)

Section 8 of Senate Bill 134, Acts of the 54th Legislature, Regular Session 1955, Chapter 514, Page 1298 at Page 1300, codified in Vernon's as Article 678m, Vernon's Civil Statutes, provides:

"Sec. 8. The Commission shall have the authority to call on any Department of State Government to assist it in carrying out the duties of the Commission. And particularly, it shall be the duty of the Board of Control to do and perform such acts and functions in connection with this Act as the Commission may direct; and to that end any portion of the money appropriated to the Commission may be allocated by the Commission to the Board of Control and expended by it under the direction of the Commission in carrying out the provisions of this Act." (Emphasis added).

The term "allocate" is not defined either in Article 678m (pre-existing law authorizing the appropriation involved here) nor in the Appropriation Bill itself. However, the term "allocate" has a definite meaning. To allocate means "to distribute or assign." Central Eureka Min. Co. v. United States, 138 F. Supp. 281, 295 (Ct. Claims 1956); Gallagher's Steak House v. Bowles, 142 F.2d 530, 534 (C.C.A., N.Y. 1944); Jacobson v. Bowles, 53 F. Supp. 532, 534 (D.C., Tex. 1944). For other definitions, see the terms "allocate" and "allocation" in 3 Words and Phrases perm.ed.336.

It is noted that pursuant to Article 678m, the Legislature has appropriated Item 12 to the State Building Commission for allocation to the State Board of Control to be expended in accordance with the provisions of Section 8 of Article 678m. This Section directs that the money allocated by the

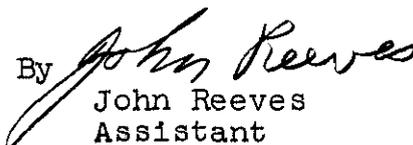
Commission to the Board of Control shall be expended by the Board of Control under the direction of the State Building Commission. You are, therefore, advised that the term "allocate" as used in the Appropriation Bill means that Item 12 is to be expended by the Board of Control under the direction of the State Building Commission. Thus, the power of the Board of Control to expend such money is limited by the phrase "under the direction of the Commission." You are, therefore, advised that the expenditure of monies by the Board of Control should bear the approval of the State Building Commission.

S U M M A R Y

Monies appropriated to the State Building Commission contained in Item 12 of its appropriation are allocated by the Legislature to the State Board of Control to be expended by the State Board of Control under the direction of the State Building Commission in carrying out the provisions of Article 678m, Vernon's Civil Statutes, as directed by Section 8 thereof.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
John Reeves
Assistant

JR:ms:zt

APPROVED:

OPINION COMMITTEE
W. V. Geppert, Chairman

Scranton Jones
Dudley McCalla
Sam Stone
Tom Hunter

REVIEWED FOR THE ATTORNEY GENERAL
BY: Leonard Passmore