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ATTORNEY GENERAL

June 21, 1967

Honorable John Connally
Governor of Texas
State Capitol
Austin, Texas

Opinion No. M-99

Re: Expiration date of terms of
members of the Texas Aero-
nautics Commission.

Dear Governor Connally:

You have requested the opinion of this office regarding the above question. In this connection, you have advised us that the records of the Governor's office and the Secretary of State's office reflected that the term of office for members of the Texas Aeronautics Commission expired on September 4 of odd-numbered years.

Article 46c-3, Vernon's Civil Statutes, originally enacted in 1945, and amended in 1961, reads, in part, as follows:

"The Texas Aeronautics Commission, created in 1945, consisting of three (3) Commissioners shall hereafter consist of six (6) members though the present three (3) Commissioners shall continue to serve the balance of their terms. The three (3) new Commissioners shall be appointed by the Governor and confirmed by the Senate. The Governor shall appoint successors for the three (3) existing Commissioners (who may be reappointed) at the expiration of their present terms, subject to confirmation by the Senate. The Commissioners shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, fourth, and sixth calendar years respectively, following the passage of this Act. The successors of the members initially appointed shall be appointed for terms of six(6) years in the same manner as the members originally appointed under this Act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was

appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and the qualification of his successor. . . ."

In examining the original statute which became effective September 4, 1945, and the 1961 amendment, we observe that each of the enactments contain identical words regarding initial appointments to the Commission, i.e., "The Commissioners shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, fourth, and sixth calendar years respectively, following the passage of this Act."

There are general rules which are to be applied in determining the commencement and end of terms of office, when the statute or constitutional provision does not lay down a sufficient guideline. In our present case, however, Article 46c-3 ties the expiration date to the last day of a certain calendar year, and we do not have to rely upon general rules to answer the question.

Black's Law Dictionary, Fourth Edition, states that "Calendar year" means: "The period from January 1 to December 31, inclusive", and "'Calendar year' preceding election means year beginning on January 1 and ending with December 31."

Webster's International Dictionary, 3rd Edition, in defining the word "year" states that the ". . . calendar year . . . is now reckoned as beginning with January 1 and ending with December 31."

In determining legislative intent, we must presume that words are used in their ordinary and everyday sense. This view is strengthened by the fact in drafting various statutes the legislature, depending on intent, utilized the terms "for the fiscal year," "for one year from . . ." or "for the calendar year."

Inasmuch as the terms of most state and county officials began on January 1, it seems obvious that it was the desire of the legislature to have the term of the members of the Texas Aeronautics committee coincide with that of the majority of the State Officials.

Article XVI, Section 30a, Texas Constitution, prohibits appointments from extending beyond six years from the date of appointment. For Article 46c-3 to be constitutional, it must be interpreted to mean that each member of the Commission appointed after the 1961 amendment was appointed for a term of office ending December 31 of the second, fourth or sixth year after date of appointment, as the case might be, and subsequent appointments were for a period ending the 31st day of December of the sixth year following the date of appointment.

Based on these calculations, the expiration date of the terms of office of each member of the Commission, as reflected by

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the records in the office of the Secretary of State, would be as follows:

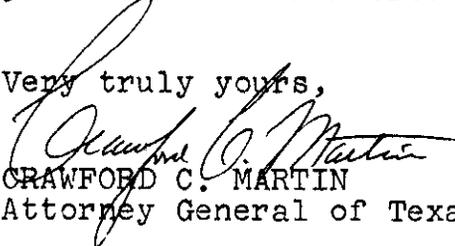
| | |
|---------------------------|----------|
| James N. Ludlum | 12-31-66 |
| E. M. Anderson, Jr. | 12-31-66 |
| Paul M. Fulks | 12-31-68 |
| A. G. Thompson | 12-31-68 |
| Shelby Kritser (deceased) | 12-31-70 |
| Harry Whitworth | 12-31-70 |

We would further observe that the statute makes specific provision for a holdover member, stating "Each member shall serve until the appointment and the qualification of his successor." This is the general rule applicable to all public offices. Article XVI, Sec. 17, Texas Constitution.

S U M M A R Y

The specific provisions of Article 46c-3, V.C.S., place the terms of Texas Aeronautics Commission members upon a calendar year basis, starting with the years 1945 and 1961. The terms are thus staggered so that two terms will end on the last day of each even-numbered year.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Malcolm L. Quick
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

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