



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

December 9, 1971

Honorable J. C. Dingwall
State Highway Engineer
Texas Highway Department
Austin, Texas 78701

Opinion No. M-1014

Re: To what extent are part-time monthly and hourly employees of the Texas Highway Department entitled to fringe benefits, such as vacation, sick leave, holidays and group insurance?

Dear Mr. Dingwall:

In your recent letter requesting an opinion you state the following:

"There are certain categories of our work that can be efficiently performed by part-time employees. To benefit young people trying to get an education, we generally employ students to do this work, with usual time running about 20 hours per week. We have between two and three hundred in the various Districts and Divisions.

"It has been our practice over the years to grant vacation time consistent with the Appropriation Bills on a percentage basis for the time worked. We have not granted sick leave with pay, holidays with pay, nor does the Department participate in the Group Health Insurance premiums for this class of employee. Many of these part-time employees work irregular hours and work shifts. Regular full-time hourly employees are granted exactly the same benefits as those granted to regular full-time monthly employees.

"We would like your advice as to the authority of the Department to follow such a policy. The wording in the last paragraph of Article V, Section 6, page V-35, of S.B. 11 causes us some concern in this matter, as it pertains to paid holidays. The wording has been changed from previous Appropriation Bills."

Section 1, subdivision f, of Article V of the General

Appropriation Act for the current fiscal year (S.B. 11, Acts 62nd Leg., R.S. 1971, as amended by S.B. 7, 1st C.S. of the same Leg., at p. V-30) reads as follows:

"f. PART-TIME EMPLOYEES. Regular full-time positions paid out of funds appropriated for 'salaries of classified positions' may also be filled by part-time employees. In computing the salaries of these employees, the rates of pay shall be proportional to the rates authorized for full-time classified employment. It is further provided that part-time employees as described in this subsection shall be subject to all of the provisions of this Section." (Emphasis added.)

Section 1, subdivision g, of Article V of the Act reads:

"g. HOURLY EMPLOYEES. It is the intent of the Legislature that hourly employees shall receive per hour rate increases proportionate to those provided in this Act for full-time salaried classified employees." (at p. V-30).

Subdivision c of Sec. 6 of Article V (p. V-34) reads, in its relevant portion:

"Holidays for State employees for each year covered by this Act shall be only those specified as follows: . . .

". . ."

We hold that this latter provision covers all State employees, irrespective of whether they are regular full-time or part-time employees, both of whom are paid out of the funds referred to in subdivision f (supra), or whether they are hourly wage workers as are specifically covered by the last paragraph of this subdivision c, which reads as follows:

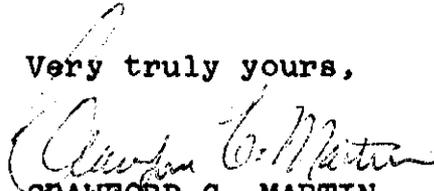
"Hourly wage workers shall receive the same holidays, with pay, as that given employees on a regular monthly basis." (at p. V-35).

Our opinion is that the policy you have heretofore followed must be altered in view of Sec. 6, supra, to allow part-time employees the same holidays, with pay, as are given employees on a regular monthly basis.

S U M M A R Y

The General Appropriation Act for the current fiscal year (S.B. 11, Acts 62nd Leg., R.S. 1971), as amended by S.B. 7, 1st C.S. of the same Leg.) authorizes the Texas Highway Department to grant vacation time consistent with the provisions of the Act on a percentage basis for the time worked; to grant regular full-time hourly employees the same benefits as those granted to regular full-time monthly employees; and to give hourly and part-time employees the same holidays, with pay, as those received by employees on a regular monthly basis.

Very truly yours,


CRAWFORD C. MARTIN
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