



THE ATTORNEY GENERAL
OF TEXAS

CRAWFORD C. MARTIN
ATTORNEY GENERAL

AUSTIN, TEXAS 78711
December 20, 1971

Honorable Burt L. Risley
Executive Director
State Commission for the Blind
317 Sam Houston Building
Austin, Texas 78701

Opinion No. M-1020
Re: Construction of Section 15
of Article V of the current
General Appropriations Act.

Dear Mr. Risley:

Your request for an opinion asks the following question:

"Are individuals who fall within the various classes specified under the heading 'EXCEPTIONS TO THE PER DIEM AND TRAVEL ALLOWANCES,' contained in Section 15 of S.B. 11, Acts of the 62nd Legislature, Regular Session, 1971, as amended by S.B. 7, Acts of the 62nd Legislature, 1st Called Session, 1971, entitled to their actual cost of commercial transportation utilized in the performance of official business in and out of the state, if such commercial transportation consists of air transportation at first class fare when air transportation at tourist class was available?"

Subdivision (b) of Section 12 of Article V of the current General Appropriations Act provides:

". . . The rate of reimbursement for any employee for whom funds are appropriated in this Act, for air transportation shall be tourist class unless tourist class is not available. This allowance shall not include federal taxes from which the employee and the State Government are legally exempt. . . ."

See Attorney General's Opinions M-939 (1971) and M-939-A (1971).

Subdivision (a) of Section 15 of Article V provides:

"Sec. 15. EXCEPTIONS TO THE PER DIEM AND TRAVEL ALLOWANCES. a. Judicial officers

authorized by law and executive heads of State agencies, including the Executive Director of the Legislative Council, shall be reimbursed for their actual meals, lodging and incidental expenses (exclusive of expenses related to automobiles for which transportation allowance is paid as provided by Section 14a of this Article) when traveling on official business either in or out of the State."

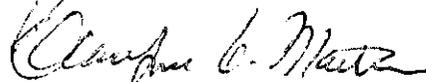
It is noted that Section 15 constitutes exceptions to per diem and travel allowances including cost of all commercial transportation. The only transportation allowance that is not included in the exceptions is transportation allowance related to automobiles. Therefore, the provisions of Subdivision (b) of Section 12 above quoted do not apply to those individuals covered by Section 15 of Article V.

You are therefore advised that individuals falling within the exceptions provided in Section 15 of Article V of the current General Appropriations Act are entitled to their actual cost of commercial transportation utilized in the performance of official business regardless of whether or not such commercial transportation consists of air transportation at first class fare.

S U M M A R Y

The provisions requiring air transportation to be tourist class do not apply to those individuals entitled to actual expenses under Subdivision (a) of Section 15 of Article V of Senate Bill 11, Acts 62nd Legislature, Regular Session, 1971, as amended by Senate Bill 7, Acts 62nd Legislature, First Called Session, 1971.

Very truly yours,



CRAWFORD C. MARTIN
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Prepared by John Reeves
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APPROVED:
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