



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

December 29, 1971

The Honorable Albert A. Rooker
Executive Director
Governor's Commission
Physical Fitness
4200 North Lamar, Suite 107
Austin, Texas 78756

Opinion No: M-1031

Re: Authority of Governor's
Commission on Physical
Fitness to purchase
station wagon under Gen-
eral Appropriation Bill
III-70 and under travel
regulations V-24, Section
18, Article 13.

Dear Mr. Rooker:

You ask our opinion as to the authority of your Commission to purchase a station wagon. In a supplemental letter you set out in detail the various uses to which the vehicle would be put. For the purposes of this opinion these uses are set out as follows:

1. "Continuous travel to communities through out the state, performing the duties as charged to this agency by law. This travel will be occasional by an individual but frequent by groups or teams conducting clinics, workshops, etc.
2. Large amounts of equipment such as 16 millimeter projectors, speakers, portable P.A. systems, overhead slide projectors, easels, etc. will be used in most presentations at clinics, workshops, or even by our speakers bureau.
3. Intra-city transportation needs by a small agency located two miles from state capitol complex has become a major problem in the few short weeks of our existence. More than 30 trips from agency headquarters to other state agencies and suppliers have already been necessary for our operation. This is a transportation problem which can also be solved by the station wagon and has no other method of reimbursement for personal vehicle use. Most of our supplies

will be purchased through the new Board of Control Central Supply Store. Larger state agencies may own trucks, etc. for this use but it would be impractical for agencies of our size to use different types of vehicles for each different type operation. Therefore, the station wagon would resolve more of our transportation requirements than any other solution.

4. The purchase of a station wagon and its operation have been included in proposed budget planning which was used at the initial senate committee meeting which created this agency. This expenditure was also approved as part of operating budget by our 15-member Commission members at its first commission meeting."

The Appropriation to your Commission for the year ending August 31, 1972¹ is \$63,451.00 out of the General Revenue Fund for purposes set out as follows:

"There is hereby appropriated to the Governor's Commission on Physical Fitness for salaries of exempt and classified positions, professional fees and services, part-time and seasonal help, travel, consumable supplies, and materials, current and recurring operating expenses, capital outlay and all other activities for which no other provisions are made." (Emphasis added.) (at p. III-70).

The Appropriation Bill ² contains in Section 18 of Article V thereof, relating to General Provisions, the following exception relating to the expenditure of money for the purchase of passenger vehicles:

"a. None of the moneys appropriated in this Act may be expended for the purchase, maintenance

1. S.B. 11, Acts 62nd. Leg. R.S. 1971, as amended by S.B. 7, Acts 62nd. Leg. 1st Cis., 1971.
2. See Footnote 1.

or operation of a passenger car. . . unless authority to do so is stated by the language of this Act.

b. Only the following passenger-carrying vehicles are exempt from the restrictions on purchases, maintenance, and operation specified in this Section. . . buses and station wagons regularly used for the mass transportation of numbers of people and essential to the efficient management of the operating agency of the State." (at p. V-43).

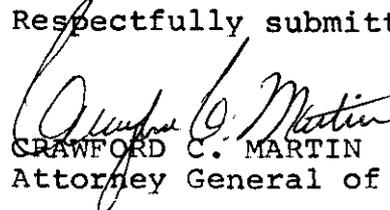
Purchase of a station wagon in the first instance could not be made "unless authority to do so is stated by the language of this Act." Furthermore, the above stated exception to this provision is not operative unless the station wagon (1) were to be used for mass transportation and (2) is essential to the efficient management of the operating agency of the State.

We note that the budget prepared by your Commission for presentation to the Legislature specifically referred to a "station wagon motor vehicle" as a part of the requested appropriation of \$63,451.00. This sum was granted in toto by the Legislature. Secondly, you state that the station wagon will be used frequently to transport "groups or teams conducting clinics, workshops, etc."; and that the station wagon "would resolve more of our transportation requirements than any other solution." As a consequence of this, we are of the opinion that your Commission does have authority to purchase a station wagon out of funds appropriated to it for the fiscal year ending August 31, 1972.

S U M M A R Y

The Governor's Commission on Physical Fitness is authorized to purchase a station wagon for the stated purpose out of funds appropriated to it for the fiscal year ending August 31, 1972.

Respectfully submitted,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by James H. Quick
Assistant Attorney General

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