



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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May 3, 1974

The Honorable Gene Riddle Brownrigg
Executive Director
American Revolution Bicentennial Commission
of Texas
P. O. Box 12366
Austin, Texas 78711

Opinion No. H- 294

Re: Whether members of the
American Revolution
Commission are entitled
to the twelve-cent mile-
age reimbursement
afforded members of the
Legislature in House Bill
139, 63rd Legislature

Dear Ms. Brownrigg:

The American Revolution Bicentennial Commission was created by a statute enacted in 1969 (Acts 1969, 61st Leg., R.S., ch. 868, p. 2620), now found as Article 6145-8, Vernon's Texas Civil Statutes.

Section 1B provides:

"Members of the commission shall be reimbursed for mileage and per diem only, and shall receive no other compensation, perquisite or allowance. The mileage shall be the same as allowed to members of the Legislature, to wit, ten cents per mile. . . ."

The temporary Appropriations Act for September 1, 1969, to October 31, 1969 (Acts 1969, 61st Leg., 2d C.S., ch. 49, p. 221) allowed members of the Legislature the same mileage allowance as provided for other State officials and employees, i. e., ten cents per mile [*Ibid.* Article V, § 13(a) and § 16(d)]. The same rates were maintained in the Appropriations Acts for fiscal 1970 and 1971 (Acts 1969, 61st Leg., 2d C.S., ch. 50, p. 623); for fiscal 1972 (Acts 1971, 62nd Leg., R.S., ch. 1047, p. 3421) and for fiscal 1973 (Acts 1972, 62nd Leg., 3rd C.S., ch. 1, p. 15).

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However, the General Appropriations Act for fiscal 1974 and 1975 (Acts 1973, 63rd Leg., ch. 659, p. 1786) allows a mileage rate of 12 cents per mile, not only for members of the Legislature [Article V, § 15(c), p. 2207] but also for state employees [Article V, § 12(a), p. 2204].

The Appropriations Act for fiscal 1974 and 1975 (supra) does contain an appropriation for your commission for travel expenses, but there is no legislation, general or special, other than the quoted provisions of Article 6145-8, V. T. C. S., bearing upon the mileage allowance to be granted Commission members.

Your question is whether the Commissioners are entitled to the 12-cent mileage.

In construing the language of Article 6145-8, V. T. C. S., which we have quoted, our duty is clear. In Trimmier v. Carlton, 296 S.W. 1070 (Tex. 1927), the Supreme Court, when faced with a similar problem, said:

"Statutes which refer to other statutes and make them applicable to the subject of legislation are called 'reference statutes,' and are a familiar and valid mode of legislation. The general rule is that when a statute is adopted by a specific descriptive reference, the adoption takes the statute as it exists at that time, and the subsequent amendment thereof would not be within the terms of the adopting act. But when the language of the adopting act is such as to evidence an intention on the part of the Legislature that the act as it then existed and as it might thereafter be amended was to be adopted, then the courts will give effect to that intention, and the adopted act and amendments thereto will be held to be within the meaning of the adopting act and to govern the subject matter thereof. . . ." (296 S. W. at 1074)

See also St. Paul Mercury Ins. Co. v. Billiot, 342 S.W. 2d 161 (Tex. Civ. App., Beaumont, 1960, err.ref'd.); Sutherland Statutory Construction (4th Ed. 1973) § 51.08, p. 324.

Had the statute in question provided no more than that members of the Commission were to receive the same mileage as allowed to members of the Legislature, we would have had little difficulty in concluding that, as the allowance of the Legislature rose, so also did the allowance to the members of the Commission.

But, the Legislature in enacting Article 6145-8 was not content to refer to the legislative allowance. Instead, it added the words: "to wit, ten cents per mile."

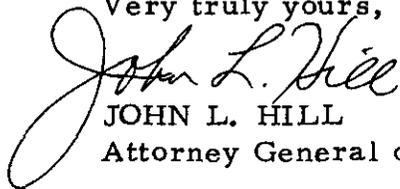
"To wit" means "that is to say; namely." Blacks Law Dictionary (4th Ed. 1951); Websters International Dictionary (3rd Ed. 1967). And see cases collected 41A, Words and Phrases, "to wit," p. 450.

As we read Article 6145-8, "ten cents per mile" defines more specifically what was meant by the preceding phrase. It is our conclusion that the Legislature intended that members of the Commission receive ten cents per mile until and unless specifically changed by legislative enactment.

SUMMARY

Under present legislation, members of the American Revolution Bicentennial Commission are to receive ten cents per mile reimbursement for the use of their private automobiles on official business.

Very truly yours,


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Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee