



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARPLES
ATTORNEY GENERAL

December 15, 1972

*overruled by
J M-19*

Honorable Henry Rothell
Administrator
Texas Employment Commission
Austin, Texas 78778

Opinion No. M-1280

Re: Whether the Commission may pay for the accumulated vacation leave of line item employees shown in Items 1 through 8 of the Texas Employment Commission appropriation from Item 9 of the Texas Employment Commission appropriation.

Dear Mr. Rothell:

Your request for an opinion asks the following question:

"1. May the Commission pay for the accumulated vacation leave of line-item employees shown in Items 1 through 8 of the Texas Employment Commission appropriation from Item 9 of the Texas Employment Commission appropriation, which provides: 'For salaries of classified positions, professional fees and services, part-time and seasonal help, estimated to be \$33,495,370.'?"

"(a) If the answer to question 1 is negative, from what source will the Commission make such payment?"

"(b) If the answer to question 1 is affirmative, may such payment be made on the monthly payroll for the month in which the separations occur?"

Accumulated vacation entitlement is a vested right of State employees and their estates. Attorney General's Opinions M-1075 (1972) and M-1252 (1972). It was held in Attorney General's Opinion M-1252 (1972) that employees for whom line item appropriations are made may be paid for accumulated time from other salary funds.

Items 1 through 9 of the appropriation to the Texas Employment Commission provide:

"For the Year Ending
August 31,
1973

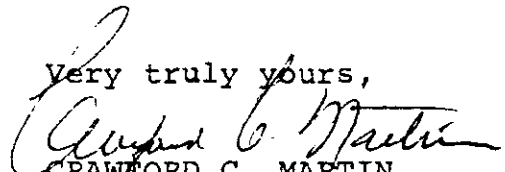
"1. Commissioners (3 at \$28,500 each)	\$ 85,500
2. Administrator	25,500
3. Associate Administrator	24,500
4. Employment Service Director	23,000
5. Unemployment Insurance Director	23,000
6. Assistant Administrators (2 at \$21,000 each)	42,000
7. General Counsel	21,000
8. Assistant Attorneys General IV (3 at \$21,000 each)	63,000
9. For salaries of classified positions, professional fees and services, part-time and seasonal help, estimated to be	33,495,370"

In Attorney General's Opinion M-1279 (1972) it was held that the provisions of Section 7 of Article V of the current General Appropriations Act relating to "Employees' Vacation and Leaves" are not applicable to State officials. Since the Commissioners are State officials, terminal vacation pay may not be allowed these officials. Items 2 through 8 are line item appropriations for salaries of employees. Therefore payment for accrued vacation time may be paid from other salary funds. Attorney General's Opinion M-1252 (1972). You are accordingly advised that such payment may be made from Item 9. Such payment should be submitted on the monthly payroll for the month in which the separation shall occur. Attorney General's Opinion M-1252 (1972).

S U M M A R Y

Payment for accrued vacation time for employees listed in Items 2 through 8 of the appropriation to the Texas Employment Commission may be paid for out of Item 9 of the appropriation to the Texas Employment Commission.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
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