



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Homer Garrison, Jr.  
Director Department of Public Safety  
Camp Mabry  
Austin, Texas

Dear Mr. Garrison:

Opinion No. 0-3831  
Re: Authority of director  
of Department of Public  
Safety to authorize ex-  
penditure from highway  
light test fund; and  
related questions.

We have for acknowledgement your letter of July 30, 1941, wherein you request the opinion of this department upon the question whether the director of the Department of Public Safety has the power and authority to authorize the expenditure of funds that may be collected and deposited in the highway light test fund, which is provided by Section 5 of Article 6701, R. C. S.

You also ask whether this fund will be available for the payment of the traveling expenses of Mr. C. R. Granberry, Professor of Electrical Engineering, University of Texas, in charge of the light testing laboratory, incurred on a proposed trip out of the state for the purpose of securing information on the latest testing technique, equipment and methods. Conditioned upon an affirmative answer to the first two questions, you request that permission be granted to Mr. Granberry to make said trip.

Section 5, Article 6701, reads as follows:

"Any person, firm or corporation may submit to the State Highway Commission a lens, reflector or headlight control device intended to make a headlight comply with the provisions of this Act, and make application that the same be tested as to

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conformity with the requirements of this Act. Upon such application being made, the State Highway Commission shall, upon notice to the applicant, submit such lens, reflector or headlight control device to the testing agency as herein designated with the request that such device be tested as to conformity with the requirements of this Act. Each such applicant shall, upon the filing of his application, pay to the State Highway Commission a fee of fifty dollars. All such fees shall be paid by the State Highway Commission into the State Treasury, and they shall be deposited in a fund to be known as the Highway Light Test Fund, and the State Treasurer shall keep such fund separate. The moneys in such fund, or so much of them as may be necessary, shall be used to meet the expense of the tests as herein provided, and for such use they are hereby appropriated, and the balance thereof, if any, shall be paid into the State Highway Fund. Moneys in the Highway Light Test Fund shall be spent under the direction of the State Highway Commission, and may be spent only to defray the expenses of testing by the testing agency herein provided for."

In an opinion dated May 3, 1938, addressed to the Honorable Julian Montgomery, State Highway Department, and written by Assistant Attorney General W. B. Pope, this department held that the duty of providing for testing and approving highway lighting devices under Article 8701 was transferred to the Department of Public Safety at the time that department was created by the Legislature and the State Highway Patrol transferred to it.

Consequently, after this transfer for the term originally used in the Act "State Highway Commission", there must, after such transfer, be substituted the words "Department of Public Safety". Your first question is therefore answered in the affirmative, since we find an appropriation of this fund for the balance of the present biennium, made by H. B. 570, Acts Forty-seventh Legislature.

Your second question is likewise answered in the affirmative. The expenses to be incurred on this trip, in our opinion, are expenses properly incident to the discharge of the duty of testing by the official agency, to-wit, the

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University of Texas, designated by the statute. The fund is, by its terms, available for defraying "the expenses of testing by the testing agency", and is, as above ruled in response to your first question, to be expended under the direction of the Department of Public Safety for such purposes.

With reference to your request for permission to be granted Mr. Granberry to make the trip in question, you are advised that this matter will be disposed of independent of this opinion request, and by the usual form letters.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Richard W. Fairchild*  
Richard W. Fairchild  
Assistant

RWF:fs

APPROVED AUG 2, 1941

*Glenn R. Lewis*  
ACTING ATTORNEY GENERAL OF TEXAS

