

Mattox: Legal attack of examiner's decisions OK

Associated Press

AUSTIN — Decisions made by a man who continued to serve on the Texas State Board of Dental Examiners, apparently not knowing at her appointment had been rejected by the Senate, are subject to legal attack, the state attorney general said Monday.

Geraldine Tucker, of Austin, also not entitled to \$11,735 in state travel reimbursement, Mattox held a legal opinion.

According to Mattox, board executive director William Nail told him that Tucker was appointed March 5, 1982, by Gov. Bill Clements while the Legislature was out of session. The Legislative convened in January 1983, and on May 26 the Senate refused to confirm Tucker's appointment.

Nail said neither Tucker nor the agency were aware of the Senate action, and she continued to serve on the 12-member board until Dec. 4, 1984, when a routine audit of the

"What she told me was that no one had notified her."

— William Nail, Texas State Board of Dental Examiners.

board revealed that Tucker had not been confirmed by the Senate.

"What she told me was that no one had notified her, and no one notified me," Nail said. "I really don't know whose responsibility it is, but I'll make my own inquiries from now on."

Nail asked Mattox if disciplinary cases Tucker voted on could be affected and if she was liable for the \$11,735 which she received in the form of travel reimbursement and per diem.

Mattox said prior attorneys general opinions agree that the Texas

Constitution "provides that 'If a recess appointee is rejected (by the Senate), said office shall immediately become vacant . . .'" and "a recess appointee has no right to hold over" under the constitution "after the Senate refuses to confirm him."

"To treat Tucker as a de facto officer between May 26, 1983, and Dec. 4, 1984, would sanction, if not actually encourage, oversights of this nature," Mattox said. "This is not sound public policy."

Mattox said what effect Tucker's service has on disciplinary cases must be determined on a case-by-case basis.

The attorney general also concluded that Tucker was not entitled to travel reimbursement and per diem after May 26, 1983.

Asked if the agency would seek repayment, Nail said the matter would be referred to Mattox's office.

"I'm sure he will look at the merits, what's equitable," he said. "She had legitimate expenses. It's not like they were invalid."

78 records show Clements received out-of-state funds

Associated Press

DALLAS — Former Texas Gov. Clements has received hundreds of out-of-state contributions, including more than \$25,000 from a New York City luncheon hosted by former Secretary of State Henry Kissinger, according to state campaign records.

Records show Clements, a Dallas executive, received almost \$20,000 from more than 250 sources beyond Texas' borders in his successful 1978 race for governor, the Dallas Times Herald reported Monday.

Clements criticized Gov. Mark White earlier this month for accepting out-of-state contributions.

The out-of-state donations included after Clements' first year office. But the Times Herald said continued to receive support from outside the state in his two subsequent bids for the governor's office.

Clements campaign spokesman with the former governor intended to criticize White for actively seeking outside money. Spokesman Reggie Bashur said Clements will

continue to accept unsolicited contributions from non-Texas supporters.

Clements, in a news conference earlier this month, said he considered it "a bad mistake" for White to accept out-of-state contributions. Clements said that he had "never" taken contributions from outside Texas and that he would not raise money outside Texas in his current campaign to unseat White.

Total contributions reported by Clements at the end of 1985 were \$390,000, including \$6,000 from out-of-state donors. White reported \$3.9 million in contributions, including \$204,000 from out-of-state supporters.

Clements, at a breakfast session with the Capitol press corps Jan. 7 in Austin, said the incumbent Democratic governor "is making a bad mistake . . ."

White's activity indicates he is more concerned with positioning himself for a possible national campaign in 1988 than with governing Texas, Clements said.

The Times Herald said Clements, asked at the breakfast whether he would accept out-of-state contributions, replied, "I never have."

Clements, asked whether he would take non-Texan donations during this year's race, said, "I don't plan to, no."

Bashur said Clements benefited from several fund-raising events outside Texas during the 1978 campaign but now considers them to have been a mistake.

"He thinks that those (events) in '78 were a bad thing, and he learns from past mistakes," Bashur said.


Representatives of White's campaign said Clements hurt his credibility by saying he had never taken out-of-state money.

White's campaign treasurer, Austin lawyer Shannon Ratliff, said, "I think it's interesting because the keystone of (Clements') campaign thus far has been (White's) credibility, and it seems to me his own campaign reports have undermined his."

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