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ARIZONA ATTORNEY GENERAL

February 1, 1972

DEPARTMENT OF LAW OPINION NO. 72-6 (R-26)

REQUESTED BY: THE HONORABLE JOHN F. TAYLOR
Navajo County Attorney

and

DR. JOHN T. CONDON
Executive Director
State Board of Directors for
Community Colleges of Arizona

QUESTION: When all of the requirements of A.R.S. §§ 15-666 and 15-667 are met, and petitions pursuant thereto are submitted to the State Board of Directors for Community Colleges, may the Board refuse to approve the petitions, thereby precluding a vote on the formation of the proposed district, when the Board feels that it is not in the best interests of the state system to allow formation of the new district?

ANSWER: No.

The operative statutes governing this question are A.R.S. §§ 15-666 through 15-669. For convenience, these statutes are reproduced below:

"§ 15-666. Junior college districts; requirements

"Junior college districts may be organized under the provisions of this chapter for a single county or two or more contiguous counties, provided the proposed district has an assessed valuation, based on the valuation for the preceding year, of sixty million dollars and a minimum potential of three hundred twenty full-time equivalent students as determined by the

state board. The state board shall determine that the qualifications of minimum potential are met when forty per cent of the high school graduates for the two school years preceding the year of organization of the junior college district equals or exceeds three hundred twenty full-time equivalent students; but nothing in this section shall be deemed to apply to junior colleges existing prior to July 1, 1961.

"§ 15-667. Procedure to form a district

"A. For the purpose of forming a district, not less than ten per cent of the qualified electors in the territory included in the proposed district, or where a district consists of more than one county not less than ten per cent of the qualified electors in each county, shall petition the county superintendent of schools for the establishment of the district. Where a district consists of more than one county, the signatures of the qualified electors on the petition shall be submitted to the superintendent of the county of which the qualified electors are residents, provided that the superintendent of the county with the larger population, as determined by the most recent federal census, shall be the custodian of the completed petition. The petition shall set forth the name of the proposed district and its boundaries. The superintendent shall verify the signatures thereon, provided that whenever a proposed district consists of more than one county the superintendent of the county with the least population shall verify the signatures on the petition from his county prior to submitting the petition to the superintendent of the county with the larger population.

"B. The superintendent who is the custodian of the completed petition, shall transmit the petition to the state board which shall conduct a survey of the proposed district to determine whether the proposed district meets the minimum standards of assessed valuation and potential full-time student enrollment, as provided in § 15-666.

"C. If the state board approves the petition, the county, or counties, shall call and conduct an election, as prescribed in this article. If the majority of the votes cast in the proposed district, consisting of one county, favor the formation of the district, such a district shall deem to be formed, as provided in § 15-668. Where the proposed district consists of more than one county there shall be a majority of the votes cast in each county favoring the formation of the district before the district shall be deemed to be formed, as provided in § 15-668.

"§ 15-668. Election to determine formation of district; notice; canvass

"Upon approval of the proposed district, the state board shall return the petition with its approval to the superintendent, or if the proposed district consists of more than one county, to the superintendent of the county with the larger population, as determined by the most recent federal census. The superintendent shall transmit notification of approval for formation of the proposed district to the board of supervisors who shall submit the question to the qualified electors of the county at the next general election or at a special election called for that purpose. If a special election is called,

notice thereof shall be given by publication for at least two weeks in a newspaper of general circulation published in the county or counties of the proposed district. The election shall be conducted and returns made in the manner provided by law for special elections.

"§ 15-669. Presentation of plan to legislature by state board

"The state board shall present a plan to the legislature for formation and establishment of a junior college district no later than January 15, subsequent to the election held as provided in § 15-668."

A.R.S. § 15-666 sets the qualifications for a proposed community college district and prescribes the method to be used by the State Board to determine the said qualifications. The statutory qualifications are an assessed valuation of \$60,000,000.00 and a minimum potential of 320 full time equivalent students.

A.R.S. § 15-667 provides that the County School Superintendent shall verify the signatures on a petition containing the signatures of 10% of the qualified electors in the proposed district, and shall transmit the petition to the Community College Board, which shall then conduct a survey to determine whether the proposed district meets the requirements of A.R.S. § 15-666. Pursuant to A.R.S. § 15-668, the Community College Board shall, upon approving the petition, return the petition to the County School Superintendent, who shall notify the County Supervisors, who then conduct the election. If the election carries, the Community College Board presents a plan to the Legislature, pursuant to A.R.S. § 15-669.

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These four statutes contain all of the provisions concerning the creation of a community college district, which will automatically be absorbed into the state system. It is our opinion that A.R.S. § 15-666 contains the sole requirements which must be met to obtain the State Community College Board's approval of the creation of the district. Once these criteria have been met, the Board must allow the election to proceed, although the Board believes that the creation of the new district will be detrimental to the total community college system.

Respectfully submitted,



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The Attorney General

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