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July 21, 1975

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ARIZONA ATTORNEY GENERAL

Honorable Tom Richey
Arizona State Representative
Post Office Box 1941
Sierra Vista, Arizona 85635

Dear Representative Richey:

This letter is in response to your letter to this office dated April 8, 1975, which was accompanied by a copy of a letter dated March 25, 1975 from Luther Flick, Superintendent, Sierra Vista Public Schools, to Senator Stephen A. Davis. In your letter you requested this office to review certain portions of Mr. Flick's letter and to advise you whether or not it was our belief that legislation was needed to resolve certain problems which Mr. Flick described.

We will address ourselves to the second problem area first, since it can be dealt with summarily. It was Mr. Flick's understanding that a unified school district could only impose a levy of up to 30¢ on each one hundred dollars of property valuation within the district pursuant to A.R.S. Section 15-445.A, although if the common and high school districts did not unify, they could have imposed an aggregate levy of up to 60¢ per one hundred dollars of property valuation, or up to 30¢ per district. Since the time Mr. Flick wrote his letter, the Legislature enacted Ch. 94, Laws of 1975 (Senate Bill 1230) which amends the above statute to permit unified school districts to impose a levy of up to 60¢ per one hundred dollars of property valuation within the district. Consequently, the problem has been resolved.

We shall now focus on Mr. Flick's first problem area, which, on the basis of our conversation with Mr. Flick, is whether a common school district and a high school district may establish a unified school district pursuant to A.R.S. Sections 15-491 et seq. if the districts are coterminous except for one particular area which is within the high school district but not within the common school district, there being an accommodation common school within that area being operated pursuant to the provisions of A.R.S. Sections 15-911 et seq.

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One of the statutory conditions for the establishment of a unified school district is that the common school district and high school district must be coterminous. That condition is set forth in A.R.S. Section 15-491.A, which reads as follows:

A common and high school district with coterminous boundaries may establish a unified school district pursuant to this article.

While the above-quoted provision does not state explicitly that the districts must be completely coterminous, we hesitate to interpret it in a contrary fashion without a strong showing that no administrative or financial difficulties would arise from such an interpretation. Consequently, we cannot opine that the subject districts may unify pursuant to A.R.S. Sections 15-491 et seq.

We think it well to point out two other statutory provisions which have a relationship to this question. A.R.S. Section 15-914 permits the transfer of the facilities and pupils of an existing accommodation school to the most accessible adjacent school district, if certain procedures are adhered to. If, in this case, the facilities and pupils of the common accommodation school were transferred to the common school district in an attempt to make it coterminous with the high school district, that result would not ensue, since we are dealing with school facilities and not the larger geographical area which is served by the accommodation school and which is included in the high school district but which would still not be completely included in the common school district. Furthermore, it does not appear that the districts can be made coterminous by utilizing a procedure similar to that set forth in A.R.S. Section 15-551, which only applies to the annexation by a high school district of a military reservation. There does not appear to be an analogous provision for common school districts.

In conclusion, this office is presently unable to issue an opinion approving unification in these circumstances without additional legislation. Should you have any further questions in this regard, please let me know.

Sincerely,

Bruce E. Babbitt
Attorney General