



Genuine
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

August 13, 1980

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ARIZONA ATTORNEY GENERAL

Mr. Mark R. Christensen, Esq.
Deputy County Attorney
Pima County Attorney's Office
900 Pima County Courts Building
111 West Congress Street
Tucson, AZ 85701

Re: I80-155 (R80-173)

Dear Mr. Christensen:

We have reviewed your opinion dated July 14, 1980 to the Pima County Superintendent of Schools. We concur with your opinion that the statutory mandate that counties pay the employees' contributions to the Old Age and Survivors Insurance and the state teachers' retirement system during fiscal year 1979-80 requires payment of these obligations irrespective of prohibitions that would otherwise exist pursuant to general budget law. See A.R.S. §§ 15-421, 38-701 et seq., 38-741 et seq., and 42-305. See also Atty. Gen. Op. No. 63-17-C.

The mechanism for dealing with the failure of Pima County to budget sufficient funds to cover the mandated payments is through application to the State Board of Tax Appeals. See A.R.S. § 42-308. See also Atty. Gen. Op. No. 79-279.

Sincerely,

BOB CORBIN
Attorney General

BC/eb

OFFICE OF THE
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900 PIMA COUNTY COURTS BUILDING
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STEPHEN D. NEELY
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7-28-80 pc
POLLARD

R80- 173

July 14, 1980

OPINION NO. 295

TO: Anita Lohr, Pima County Superintendent of Schools

FROM: Mark R. Christensen, Deputy County Attorney

QUESTION:

See Attached Letter

ANSWER:

The Attorney General Opinion cited in your letter is still an accurate interpretation of Arizona law. See body of Opinion.

Federal and state law require most employers to pay sums which are applied to an Old Age and Survivors Insurance (OASI) account. See 42 USCA § 401 et seq. and A.R.S. § 38-701. Additionally, A.R.S. § 38-741 et seq. and A.R.S., Title 15, ch. 14 require certain bodies politic to contribute sums to the teachers' retirement system. For the year in question (FY 79-80), A.R.S. § 15-1421 required counties to pay the employers' portions of both the OASI account and the teachers' retirement system. The formulae used to compute the amount of these payments are also, of course, fixed by law.

Since the statutory scheme cited above expressly mandates that these payments be made and given that budget limitations contemplate the making of these payments, it is the opinion of this Office that, despite the underestimate in question or other miscalculation, the payment must be made when the obligation is determined to be a sum certain and is chargeable to the Pima County budget for FY 79-80. Attorney General Opinion 63-17C remains, therefore, an accurate reflection of the principle that, in the area of public education law, payments which are to be made as employers' contributions and which are expressly mandated by statute are not to be prevented by general budget law which would otherwise proscribe such payments.

Respectfully submitted,

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

APPROVED:

EDUCATION OPINION
ISSUE NO LATER THAN
9-28-80

OFFICE OF THE PIMA COUNTY SCHOOL SUPERINTENDENT

PIMA COUNTY GOVERNMENTAL CENTER, TUCSON, ARIZONA 85701

Mrs. ANITA LOHR, *Superintendent*

Mrs. MARY CROWE, *Chief Deputy*



June 27, 1980

R80- 173

Mr. Mark Christensen
Deputy Pima County Attorney
111 West Congress Street
Tucson, AZ 85701

Dear Mr. Christensen:

It appears that the budget estimate for the employer's matching contribution for certified school employees' state retirement and OASI submitted by this office to the Pima County Finance Department in 1979 was underestimated by approximately \$350,000. The Arizona Revised Statutes require that payment of the employer's amount be made; Attorney General Opinion 63-17C indicates that payment of this character are outside the mandate of general budget limitation laws. Is this opinion still a correct interpretation of the applicable laws in Arizona, especially in light of underestimate referred to above?

Respectfully,

Anita Lohr
Pima County School Superintendent

AL/pl