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Phoenix, Arizona 85007

August 12, 1981

Mr. David S. Hunt
Deputy County Attorney
Office of the County Attorney
Cochise County
P.O. Drawer, Ca
Bisbee, Arizona 85603

Robert R. Corbin
LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Re: I81-095 (R81-120)

Dear Mr. Hunt:

Pursuant to A.R.S. § 15-253.B we decline to review your opinion dated August 10, 1981, to the Superintendent of the Cochise County School concerning the determination of tax liability of certain utilities whose transmission facilities are situated within the boundaries of the Sierra Vista Public School District.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC/ta
0552F/8306F



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PATRICK M. ELLISTON
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EDUCATION OPINION
ISSUE NO LATER THAN
10-11-91

8-12-81 pc
URBANIC
R81-120

Patricia M. Goren
Superintendent of School
Cochise County
P. O. Drawer Y
Bisbee, Arizona 85603

Dear Pat:

This letter is in response to your request for an opinion regarding the determination of tax liability of certain utilities whose transmission facilities are situated within the boundaries of the Sierra Vista Public School District.

The problem you have noted arises from the decision of a non-contiguous Sierra Vista Districts to "operate as a unified school district under a single governing board" as allowed by A.R.S. §15-463(C). The utilities have historically paid taxes only to the high school districts since their transmission facilities are located on the Ft. Huachuca Military Reservation which is encompassed by the high school district. The elementary school district does not encompass the Military Reservation, as there is an accommodation elementary school district to serve residents of the Fort.

Since the utilities have never paid taxes to the elementary district, the question is now presented as to whether the mere operation of these previously independent districts as a single unified district means that the utilities will now have to pay taxes based on the combined budgets and assessed valuations of the new entity.

A.R.S. §15-962(A) provides that, based on the County School Superintendent's estimate, the Board of Supervisors shall

". . . make a levy on the property of the district sufficient to produce the amount asked for. . ."

The utilities have been situated in the high school district but not in the elementary district and it does not appear that the consolidation of the two districts for administrative convenience would alter the limited nature of the utilities' obligations. The utilities are located within the accommodation school district and their obligation,

Pat Goren
Page 2
August 10, 1981

if any, for elementary school operations would be to the accommodation district. In the event that the accommodation school district levied taxes of its own, the utilities would, in all likelihood, be liable for their payment. If they were also required to pay taxes for the elementary program in the Sierra Vista district, they would, in effect, be subject to double taxation.

It should be noted that A.R.S. §15-463(C) provides that Non-contiguous districts of this sort may be administered "as a unified school district." (emphasis added), not that they necessarily becomes unified in the customary sense. This language suggests a legislative intent that the Board of such a district has considerable flexibility in configuring and administering the district. It would not appear that this statute would prevent the Board from generating separate budgets for the elementary and high school programs while, at the same time, producing a consolidated budget for administrative and disbursement purposes. Indeed, such a consolidated but prorated structure has been provided for in A.R.S. §15-328 which allows, high school districts with coterminous boundaries and common Board membership to operate under a single administrative program. ¹ §15-463 has eliminated the requirement for coterminous boundaries and permitted operations under a single board. In other respects, §15-328 sets forth guidelines which usefully describe anticipated areas of consolidation.

Accordingly, I would recommend that the consolidated budget be apportioned to reflect the relative expenditure levels of the high school and elementary programs and that assessed valuations used in the computation of applicable tax rates

¹ Paragraph(C) of §15-328 sets forth certain administrative operations which may be included in such programs:

"For purposes of this article: 'single administrative program' means that a common and high school district as provided in subsection A may combine administrative functions including but not limited to land acquisition, construction of school buildings, employment of all persons engaged in the administration and operation of the common and high school district, and purchase and use of equipment and services, provided that such expenditures are properly prorated to the separate accounts of the common and high school districts. The proration shall also apply for budget purposes."

Pat Goren
Page 3
August 10, 1981

R81- 120

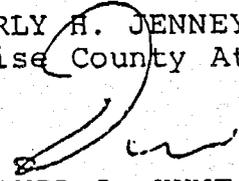
be apportioned. On the budget side this would be probably be best accomplished in for the present year by assigning the consolidated budget items to high school and elementary categories, and, in effect, reconstructing individual budgets for the two programs. Using this data, it will then be possible to compute tax rates which reflect the involvement of the utilities with the high school district only.

In future years, it will, perhaps, be wise to develop individual budgets for the high school and elementary programs and to maintain them as separate entities through the hearing process. The budgets could then be combined for greater compatibility with the consolidated administrative program as the need dictates. This approach would allow more effective presentation of the individual budgets to tax payers who may have an interest in one or the other of the programs. The non-contiguous nature of these districts may, in the future, require responses to problems not envisioned when the enabling legislation was enacted. I would, therefore, suggest that you advise the district to design its budget process in order to retain the ability to address each program separately as well as in the combined format.

I trust that this will enable you to clarify your position with regard to apportionment of tax liabilities. If I can provide further information please let me know. Pursuant to A.R.S. §15-252, a copy of this opinion is being forwarded to the Attorney General for review.

Very truly yours,

BEVERLY H. JENNEY
Cochise County Attorney

BY: 
DAVID S. HUNT
Deputy County Attorney

DSH/sm