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Robert R. Corbin

February 16, 1990

Mr. Andrew C. Hendricks
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Re: I90-020 (R89-141)

Dear Mr. Hendricks:

Pursuant to A.R.S. § 15-253(B), this office has reviewed your firm's opinion letter to Dr. Carolyn Downey, Superintendent of Kyrene Elementary School District (District) regarding whether the District may adjust its budget override^{1/} figure to reflect mid-year adjustments to its revenue control limit^{2/} for growth in student count pursuant to A.R.S. § 15-948.

In 1986, pursuant to A.R.S. § 15-481(E), the voters of

^{1/}A budget override is a mechanism for increasing a school district's yearly budget through a vote of the district's electors. See A.R.S. § 15-481.

^{2/}A district's "revenue control limit" composes part of a school district's general budget limitations and must be computed pursuant to article 3 of Title 15. It limits the amount that a district may spend for its maintenance and operation. A "budget override figure" is computed as a percentage of the revenue control limit to determine how much a district may expend outside its revenue control limit. A.R.S. § 15-481(M); 15-947(C)(8).

the District approved a multi-year budget override of 10 percent^{3/} of the District's revenue control limit. During the past three years, the District has adjusted its revenue control limit due to growth in student count, and after public notice and hearing, it has increased its revenue control limit as authorized by A.R.S. § 15-948. At the same time, the District has recomputed its override budget figure based upon these adjustments to its revenue control limit. The amount of each year's override budget figure is used to fix the secondary tax levy funding the override at the beginning of each school year. A.R.S. § 42-304.

The District asked whether it may increase its budget override figure based upon a mid-year adjustment to its revenue control limit after the secondary tax has been fixed and levied. You advised that the District may so increase its budget override figure. Because this computation increases the budget override figure above the amount fixed for the secondary tax levy and because the budget override figure may be funded only by the secondary tax levy, we revise your opinion to conclude that the District is prohibited from increasing its budget during the school year by recomputing the figure based upon the mid-year revenue control limit.

A.R.S. § 15-948 allows a school district that meets the criteria for growth in student count to increase its revenue control limit for the current year. However, the school district may not determine whether it is eligible to increase its revenue control limit until well after the secondary tax rate has been set pursuant to A.R.S. § 42-304. This adjustment to the revenue control limit may not occur until after the first 40 school days of the current school year, and may occur as late as the following May 15. A.R.S. § 15-948(A), (C), (D). The secondary property tax, which funds the amount of the override, is set and levied in August of the current school year pursuant to section 42-304. Consequently, a section 15-481(E) budget override figure which is based upon an increased mid-year revenue control limit could not be funded by the secondary property tax, which has already been set and levied according to law.

We note that A.R.S. § 15-481, which governs override elections and override budget increases, does not provide for a mid-year budget override adjustment. Additionally, A.R.S. § 15-481(E) and (M) provides that the secondary property tax is

^{3/}With one exception, the maximum budget override amount allowed under A.R.S. § 15-481(G).

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the sole source of funding for the subsection E budget override increase. Therefore, the Legislature has not authorized a mid-year increase of a school district's budget override figure, nor has it authorized a school district to fund such a mid-year increase. School district governing boards have only that authority granted by statute. School District No. 69 of Maricopa County v. Altherr, 10 Ariz. App. 333, 338, 458 P.2d 537, 542 (1969).

Therefore, we conclude that the District is prohibited from increasing its budget during the school year by recomputing its override budget figure to reflect adjustments for growth in student count.

Sincerely,



BOB CORBIN
Attorney General

LSP/LPF/lpf