



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007

GRANT WOODS
ATTORNEY GENERAL

MAIN PHONE: 542-5025
TELECOPIER: 542-4085

January 8, 1992

Victoria E. Witt
Deputy County Attorney
Yavapai County Courthouse
Prescott, Arizona 86301

RE: I92-001 (R91-044)

Dear Ms. Witt:

Pursuant to A.R.S. § 15-253(B), we have reviewed your August 15, 1991 opinion letter to Joan Carpenter, Business Manager of Prescott Unified School District No. 1, regarding governing board member participation in the District's health insurance plan. In 1989, the legislature passed the provisions allowing governing board members, former board members and surviving spouse and dependents to procure insurance. A.R.S. § 15-387. Language in this section refers directly to self insurance.

[T]he governing board may procure insurance from any insurer authorized by the director of the department of insurance or may establish a self insurance program as provided in § 15-382

A.R.S. § 15-387(A). Therefore, the legislative intent is that the provisions in A.R.S. § 15-387(A) do not conflict with the limitation on "expenditure of school district monies" in A.R.S. § 15-387(B).

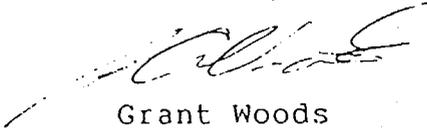
The provisions were originally passed as A.R.S. § 15-381 subsections D, E, F and G. Pursuant to A.R.S. § 41-1304.02, these subsections were re-lettered as a new § 15-387, subsections A, B, C and D. These provisions and amendments were added by the Legislature after A.R.S. § 15-382, the authorization for Districts to self insure had been adopted.

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We concur, therefore, with your conclusion that board member participation in insurance plans that are self funded does not conflict with the restriction against expenditure of school district monies. So long as the board members pay the full amount of the premium and all other participation costs, and the district offers no subsidy, there is no conflict between the provisions of section 15-387(C) and those of section 15-382, the authorization to self insure. The restrictions in section 15-387(B) and (C) are intended to prevent any privileged treatment of governing board members, while still allowing their participation in insurance plans of the district. A school district's decision to self insure, does not preclude the other provisions of the amended legislation.

We revise that portion of your opinion which refers to A.R.S. § 15-381(E) to now reflect the numbering of the section as amended by the legislature, to A.R.S. § 15-387. We conclude that board members, former board members and family participation in the district's health insurance plan is permitted under section A.R.S. § 15-387 and self insurance as authorized in A.R.S. § 15-382 does not disallow that participation.

Sincerely,



Grant Woods
Attorney General

GW:EB:lkb