

94-007

STATUTES CITED

ARS 11-497

ARS 15-253

ARS 15-365

ARS 15-365 (A) THRU -365 (C)

ARS 15-365 (E) THRU -365 (H)

ARS 15-365 (K)

ARS 15-365 (K) (1)

ARS 15-365 (K) (2)

ARS 15-365 (K) (3)

ARS 41-736

US CODE

16 USC 500

ARIZ. CONSTITUTION

AZC ART. 12, SEC. 4



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

December 9, 1994

A. Dean Pickett, Esq.
Mangum, Wall, Stoops & Warden, P.L.L.C.
222 East Birch Avenue
P.O. Box 10
Flagstaff, Arizona 86002

Re: I94-007 (R94-49)

Dear Mr. Pickett:

Pursuant to A.R.S. § 15-253, we revise your October 12, 1994 opinion to Mr. Norlis C. McKay, Superintendent, Show Low Unified School District #10. We address your response to the following questions:

1. May a county board of supervisors, in conjunction with the county school superintendent, direct forest reserve fees pursuant to A.R.S. § 11-497 to be applied and disbursed by means of a service program established pursuant to A.R.S. §§ 15-365(A) through -365(C) under which requests for disbursement or expenditure would be presented to the county school superintendent, who would then make designated purchases for fund transfers as requested?
2. If the answer to the first question is "yes", does the expenditure of these forest reserve fees for the benefit of a school district affect its budget or go to reduce taxes?

According to 16 U.S.C. § 500, a portion of "all moneys received during any fiscal year from each national forest shall be paid, at the end of such year . . . to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated" In A.R.S. § 41-736, the Arizona Legislature has provided for the disbursement of these funds:

A. Dean Pickett
December 9, 1994
I94-007 (R94-49)
Page 2

When any money is received by the state from the United States from forest reserves, the department [of administration] shall ascertain the amount apportionable to each county according to the forest reserve acreage contained in each county, apportion the money among the several counties entitled thereto, and transmit warrants therefor to the respective treasurers of such counties.

The county treasurer must notify the clerk of the board of supervisors and county school superintendent of the amount received from the Department of Administration as the county share of the money received from forest reserves, and the money "shall be disbursed for the benefit of public schools and public roads of the county as the board of supervisors may direct." A.R.S. § 11-497.

Pursuant to A.R.S. § 15-365(A), a "county school superintendent may establish service programs which shall be available to any local school district governing board officially requesting such programs." The term "[s]ervice programs" means those programs which can be accomplished more efficiently and economically as multidistrict or multicounty operations." A.R.S. § 15-365(K)(3). With the exception of small school districts as defined in A.R.S. §§ 15-365(E) through (H), districts using service programs must share both central administrative costs and general service costs on a user basis, and budget and pay such expenses as contract costs. A.R.S. § 15-365(B). For districts not deemed small school districts, "central administrative costs" means only those costs which are incurred by the county school superintendent in administering any service program which benefits all the school districts in the program and which are shared on a user basis and budgeted and paid as contract costs by districts. A.R.S. § 15-365(K)(1). "General service costs" means those costs which are directly related to each of the service programs, which are shared on a user basis and which are budgeted and paid as contract costs by districts. A.R.S. § 15-365(K)(2).

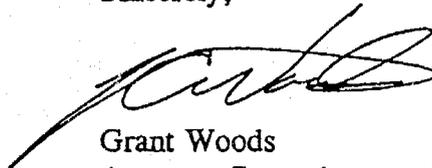
A county board of supervisors has broad authority pursuant to A.R.S. § 11-497 to direct the disbursement of forest reserve monies "for the benefit of public schools" upon notice to the board and the county school superintendent of the county share. Under the specific language of A.R.S. §§ 15-365(B) and (K), however, the costs of a service program that the county superintendent has established, both central administrative and general service, must be paid exclusively by the school districts participating in such program. Thus, A.R.S. § 15-365 does not authorize the county to pay these costs directly.

A. Dean Pickett
December 9, 1994
I94-007 (R94-49)
Page 3

Moreover, the Legislature has not authorized either a county board of supervisors or school superintendent to expend funds for payment of costs associated with a service program in any other statute. The county offices of supervisor and superintendent of schools are authorized in Article 12, Section 3 of the Arizona Constitution. The duties, powers, and qualifications of such officers are as prescribed by law. Ariz. Const. art. 12, § 4. The constitution does not detail the duties of county officers; this task is left to the Legislature. *Cecil v. Gila County*, 71 Ariz. 320, 322, 227 P. 2d 217, 218 (1951).

We conclude that a county board of supervisors, in conjunction with the county's school superintendent, may not direct forest reserve fees to be applied to and disbursed by means of a service program established pursuant to A.R.S. §§ 15-365(A) through (C). As our answer to the first question to which your opinion responds is no, we need not address the second question.

Sincerely,



Grant Woods
Attorney General