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ARIZONA ATTORNEY GENERAL

January 22, 1985

M. Randolph Schurr
Deputy Yavapai County Attorney
Yavapai County Courthouse
Prescott, AZ 86301

Re: I85-009 (R84-215)

Dear Mr. Schurr:

Pursuant to A.R.S. § 15-253.B, we revise the opinions expressed in your letter to Dr. Eugene Hunt, Yavapai County School Superintendent concerning payment of vouchers which will result in expenditures in excess of available capital levy and outlay funds.

The Mingus Union High School District #4 governing board duly approved a 1984-85 school year budget which significantly overstated the beginning capital levy fund balance in the capital levy budget. Prior to the discovery of this error and consistent with the budget adopted by the governing board, the District contracted for the construction of capital improvements.

Vouchers have been submitted to the county school superintendent pursuant to A.R.S. § 15-304 for payment out of the District's capital levy fund. Such payment will, however, result in expenditures in excess of the available capital levy and outlay funds. We conclude that the county school superintendent may not draw the warrants for payment.

Laws 1984, Ch. 314 (2nd Reg. Sess.), § 5 provides, in pertinent part, as follows:

Mr. M. Randolph Schurr
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[a] school district's allowable expenditures for capital levy for the fiscal year 1984-1985 shall not exceed the sum of the amounts identified in the following three items . . . :

(i) The beginning capital levy fund balance as of July 1, 1984.

(ii) The amount calculated by applying the capital levy tax rate for the fiscal year 1984-1985 as a rate per one hundred dollars of assessed valuation used for primary property tax purposes within the school district for the tax year 1984.

(iii) The interest received in the fiscal year 1984-1985 on the monies in the capital levy fund.

This law makes it clear that expenditures may not exceed the sum of these amounts.^{1/} Since the beginning capital levy fund balance was so drastically overcalculated in the adopted budget, it is virtually impossible for the funds available from the tax levy and interest to compensate for such a discrepancy. Since no other funds are available to make up the deficiency in the capital levy fund and no payments may be made other than in the fiscal year the noncontingent debt arose,^{2/} the warrants should not be issued.

Sincerely,



BOB CORBIN
Attorney General

BC:TLM:lsp

1. Reduced by the amount transferred to the maintenance and operation fund under A.R.S. § 15-1003A.2.a.

2. Ariz. Atty. Gen. Op. I81-111. See A.R.S. § 15-906.B.



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December 12, 1984

Rec'd 12-14-84

R84- 215

Dr. Eugene Hunt
Yavapai County School Supt.
Yavapai County Courthouse
Prescott, AZ 86301

Re: Payment of vouchers which do not
exceed capital levy budget, but
do exceed budget limit

Dear Gene:

For the 1984-85 fiscal year Mingus Union High School District #4 duly approved a budget which included a capital levy budget. After adoption, you discovered that the beginning fund balance in the capital levy budget was significantly overstated, and that the District would have a substantial unfunded liability in the event the authorized budget was spent.

After adoption of the budget, the District contracted for the construction of capital improvements. Vouchers have been submitted to you pursuant to A.R.S. §15-304 for payment out of the District's capital levy fund. The Arizona Department of Education has recalculated the allowable expenditures from the capital levy fund, and it appears that the pending vouchers, if paid, will result in expenditures in excess of the capacity of the capital levy and outlay funds, if the capital levy fund had been properly computed.

Your question is whether you should draw a warrant on the capital levy fund if the expenditure is authorized by the adopted budget, but will exceed the budget if it had been properly prepared. The answer is yes.

It appears that the District may have violated A.R.S. §15-905(G), in that the amount budgeted for the capital levy fund and included in the aggregate budget limitation computation exceeds the amount authorized by law. Under A.R.S. §15-905(E), the superintendent of public instruction must on or before September 30 notify each district if the adopted budget exceeds the aggregate budget limit. No notice was given in this instance.

Under A.R.S. §15-304 the county school superintendent may not pay a voucher drawn on the capital levy fund "for a purpose not included in the budget of the school district or for an expenditure in excess of the amount budgeted". We must assume that the "budget" referred to is the adopted budget of the school district, since the county school superintendent does not have the power to amend an adopted budget on his own initiative. The vouchers submitted are for a purpose included in the adopted budget and do not exceed the amount budgeted. A.R.S. §15-304 also permits payments from the capital levy fund when cash on hand is insufficient.

We do not imply by this opinion that a school district should not voluntarily restrict spending given similar situations to comply with the spirit of the law and to protect its fiscal integrity.

Very truly yours,



M. Randolph Schurr

MRS:ces

ccs: Henry Barbarick
Robert Corbin, Atty. General