



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

May 15, 1975

Opinion No. 75- 226

The Honorable Ruth Wilkin
State Representative
1610 Willow Avenue
Topeka, Kansas 66606

Dear Representative Wilkin:

You inquire concerning the legality of the expenditure of public funds of a community junior college district for affiliation with the Kansas Association of Community Colleges.

You enclose a brochure titled "Kansas Association of Community Colleges 1974-75." The paragraph titled "Budget" states thus in pertinent part:

"The association's main source of support is from college membership dues. Each of the 19 member colleges pay a basic membership fee of \$1500 plus \$1.00 per full time equated student (FTE). The association is on the third year of this dues rate. During 1974-75 this structure will raise approximately \$44,000 toward a budget of over \$50,000.

K.S.A. 72-5326 states thus:

"The board of education in any school district or the board of trustees of any community junior college is hereby authorized to appropriate money out of its general fund to pay the annual dues in the Kansas association of school boards." [Emphasis supplied.]

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In Joint Consolidated School District No. 2 v. Johnson, 163 Kan. 202, 181 P.2d 504 (1947), the court stated thus:

"That a public officer entrusted with public funds has no right to give them away is a statement so obviously true and correct as to preclude the necessity for citation of many authorities. . . . Equally well established is the proposition that school funds can be expended by the district board only for purposes authorized by statute either expressly or by necessary implication." 163 Kan. at 208.

This rule applies to community junior college districts. Clearly, board of trustees of community junior college districts may pay annual dues from funds of the district for membership in the Kansas Association of School Boards. The legislature has specifically described the permissible expenditures of public funds for membership in Kansas school associations.

In LeSueur v. LeSueur, 197 Kan. 495, 419 P.2d 817 (1966), the court stated thus:

"The direct mention of this discretionary authority implies exclusion of any other implied authority. The general rule is thus stated in 82 C.J.S., Statutes, § 333 a, p. 668:

'Under the general rule of express mention and implied exclusion, the express mention of one matter excludes other similar matters not mentioned; every positive direction in a statute contains an implication against everything contrary to it; the specification of one particular class excludes all other classes; and an affirmative description of powers granted implies a denial of non-described powers.'" 197 Kan. at 500.

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Legislative intent regarding permissible expenditures of public funds by Kansas unified school districts and community junior college districts for affiliation with Kansas school associations has been expressed with great clarity. Any ambiguity in the general powers of boards of trustees as respects authority to pay funds of the district for affiliation with Kansas school and college associations must be resolved in accordance with the maxim expressio unius est exclusio alterius -- that is, the enumeration of express authority to pay dues for membership in one such association excludes the implication of authority to join any other like association.

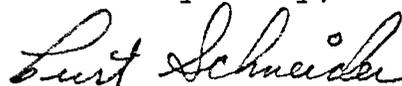
Our attention has been drawn to 1975 Senate Bill 462, introduced by the Committee on Education, section 3 of which states thus:

"The board of trustees of any community junior college, upon majority vote of the members thereof, is hereby authorized to pay dues from its general fund to any professional association or organization whose purpose is to assist in the performance of its educational responsibilities and duties."

This bill was not passed by the 1975 Legislature, which merely suggests that whatever legislative intent there may be on the question is clearly unchanged since the most recent amendment of K.S.A. 72-5326 as set out above.

Accordingly, it is our opinion that the expenditure of public funds of a community junior college district for affiliation with and membership in the Kansas Association of Community Colleges is entirely unauthorized and contrary to law. Any official who causes any such claim to be paid is subject to liability for the amount of any monies so paid unlawfully and without authority. Joint Consolidated School District No. 2 v. Johnson, supra.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj