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ATTORNEY GENERAL OPINION NO. 84-112

Mr. Alan F. Alderson
Alderson, Alderson & Montgomery
1610 S.W. Topeka Avenue
Topeka, Kansas 66612

Re: Schools--School District Equalization and Related Acts--Increased Budget by Order of State Board of Tax Appeals

Synopsis: Pursuant to K.S.A. 72-7071(b), any increase in funds obtained by a school district by appeal to the State Board of Tax Appeals must be budgeted and expended exclusively for the purpose for which the increase is authorized. Thereafter, any such amount may not be budgeted or expended for a purpose different than the purpose for which an increase was initially obtained. Cited herein: K.S.A. 1983 Supp. 72-7055, as amended by L. 1984, ch. 268, §5; K.S.A. 72-7071.

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Dear Mr. Alderson:

As a fact finder appointed by the Secretary of Human Resources under K.S.A. 72-5428, and with the consent of the Secretary, you seek an opinion concerning the provisions of K.S.A. 72-7071. This statute grants authority to the State Board of Tax Appeals to "authorize a [school] district to increase its legally adopted budget of operating expenses or its expenditures" upon a finding by the state board that certain conditions (prescribed in subsection (a) of the statute) cause an increase in operating expenses greater than the district is permitted to budget for under the budget limitations prescribed in the School District Equalization Act.

You ask whether the amount of an increase authorized by the Board of Tax Appeals for any of the reasons stated in K.S.A. 72-7071(a) must be budgeted for that purpose in each subsequent budget of the school district following the year in which the Board of Tax Appeals entered its order authorizing the increase. For example, assume a school district appeals to the Board of Tax Appeals to increase its budget for the 1984-1985 school year because the requirement to provide transportation for students causes an increase in operating expenses greater than the district is authorized to budget under the budget restraints prescribed in the School District Equalization Act. [This is one of the grounds upon which a school district can request an increase in its budget. See K.S.A. 72-7071(a)(3).] The board then grants the request. Pursuant to the requirement of subsection (b) of K.S.A. 72-7071, the school district then includes in its budget for the 1984-1985 school year the amount of increase authorized by the State Board of Tax Appeals, clearly showing that such amount will be expended only for the purpose of providing transportation for students.

The question arises, however, whether the increase granted for the 1984-1985 budget to provide transportation for students must be included for the same purpose in the 1985-1986 budget and in each budget adopted thereafter. If such action is not required, in subsequent years the school district could divert this increase to pay for other operating expenses, including salaries for professional employees. A situation similar to that described above has occurred in the school district for which you currently are serving as fact finder. It has been asserted that the school district could retain, in its general fund, some of the amounts authorized by the Board of Tax Appeals in prior years and actually expend this money for the purpose of increasing professional employees' salaries and benefits.

We are of the opinion that such amounts cannot be so expended, in that such use would be contrary to the express limitation prescribed in subsection (b) of K.S.A. 72-7071. This subsection provides:

"Amounts obtained by a district as a result of an increase in its legally adopted budget of operating expenses authorized by the state board of tax appeals under this section shall be budgeted and expended exclusively for the purpose for which such increase was authorized." (Emphasis added.)

While these provisions could be interpreted to apply only to

the legally adopted budget of a school district for the year in which an increase is granted by the Board of Tax Appeals, we must reject this interpretation. The Kansas Supreme Court has stated repeatedly:

"In construing statutes the legislative intention is to be determined from a general consideration of the entire act. Effect must be given, if possible, to the entire act and every part thereof. To this end it is the duty of the court, so far as practicable, to reconcile the different provisions so as to make them consistent, harmonious and sensible. Wirt v. Esrey, 233 Kan. 300, 313,622 P.2d 1238 (1983). See also Szoboszlay v. Glessner, 233 Kan. at 478." State v. Flummerfelt, 235 Kan. 609, 612 (1984).

Applying these rules of statutory construction, we note that the legislature, in subsection (a) of K.S.A. 72-7071, did not grant the Board of Tax Appeals the authority merely to authorize a school district to exceed its legally adopted budget of operating expenses for a particular year. Instead, the Board is empowered to authorize an increase in a school district's legally adopted budget. As a result, the budget of the school district for subsequent years following the year in which the board authorizes an increase will likewise be increased. This occurs because the budget of a school district is based upon the district's budget for the preceeding year. See K.S.A. 1983 Supp. 72-7055, as amended by L. 1984, ch. 268, §5.

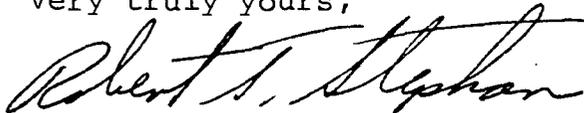
In our judgment, if the legislature had intended to authorize a school district to receive more moneys for one or more of the purposes designated in subsection (a) of the statute, and had intended that such increase was to apply only to a single budget year, it would have allowed a district to exceed its legally adopted budget for that year. This, however, was not the action authorized by the legislature. The legislature authorized an increase in the school district's legally adopted budget, which has an effect on subsequent budgets of the school district, due to the wording of the School District Equalization Act.

Accordingly, since an increase granted by the State Board of Tax Appeals under subsection (a) of K.S.A. 72-7071 has an effect on subsequent budgets of a school district, it would be improper to construe subsection (b) of the same statute to be applicable only to the budget of a school district for one particular year.

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Based upon the above reasoning, it is our opinion that, under K.S.A. 72-7071(b), any increase in funds obtained by a school district by appeal to the State Board of Tax Appeals must be budgeted and expended exclusively for the purpose for which the increase is authorized. Thereafter, any such amount may not be budgeted or expended for a purpose different than the purpose for which an increase was initially obtained.

Very truly yours,



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