



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

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STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-71

March 6, 1985

Mr. Tommy R. Venters, Director
General Education
Department of Education
State Education Building
Little Rock, Arkansas 72201-1021

Dear Mr. Venters:

This is in response to your opinion request wherein you asked the following question:

May a school district legally enter into an agreement the length of which exists over a term of several years and obligates the school district to financial payment in each separate year of the agreement?

Relevant to your inquiry is Ark. Stat. Ann. 80-1003 (Supp. 1983) which provides in pertinent part as follows:

The amount of obligations incurred by a school district for any school year shall not be in excess of the revenue for that year as determined in Section 2 (§ 80-1002) of this Act; provided that school boards may issue post-dated warrants for the following purposes: (a) purchase of school buses; (b) payment of premiums of insurance policies on school buildings, facilities and equipment in instances where the insurance coverage extends three (3) years or longer; (c) purchase of equipment; (d) repair and renovation of school facilities; (e) purchase of school sites; and (f) payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal, or reappraisal, and assessment of property for ad valorem tax purposes.

* * *

Warrants drawn for any of the purposes above must be paid within four (4) years of the date of issuance and must be registered, on forms provided by the State Board of Education, with the treasurer of the district and the State Board of Education.

The only case in which the Arkansas Supreme Court has been called upon to interpret Ark. Stat. Ann. 80-1003 is Jenson v. Special School District No. 6 of Hot Springs, 199 Ark. 886, 136 S.W.2d 169 (1940). Noting the similarity between the statute in question and Amendment No. 10 to the Arkansas Constitution, the Arkansas Supreme Court made the following observation:

In this respect said act 194 is not essentially different from amendment No. 10 to the Constitution where city and county officials are prohibited from making contracts and allowances "in excess of the revenue from all sources for the fiscal year in which said contract or allowance is made; . . ." Under this amendment, we held, in Polk County v. Mena Star Co., 175 Ark. 76, 298 S.W. 1002, that: "the levying board may appropriate the total revenue and the county court may make contracts and allow claims for all the revenue of any fiscal year, regardless of other indebtedness existing at the time of the adoption of the amendment, and regardless of other indebtedness incurred subsequent thereto, provided same was not in excess of the revenue for the year in which it was incurred." This rule has been stated in many cases. See Miller v. State, use Woodruff Co., 176 Ark. 889, 1. S.W. 2d 998, where it was held to quote a headnote: "While a county cannot increase the amount of its existing indebtedness by incurring debts in excess of its current revenue, it is not an increase of indebtedness within Amendment 11, (10) where a county, which cannot redeem all outstanding indebtedness, at the beginning of a fiscal year issues warrants which cannot be redeemed through lack of funds, but which, when issued, are not in excess of indebtedness outstanding at the end of the prior fiscal year."

199 Ark. at 892.

In 1980, the Arkansas Court of Appeals again had occasion to consider Amendment 10, Article 12, Section 4 to the Arkansas Constitution. See Searcy County v. Horton, 270 Ark. 22, 603 S.W.2d 437 (Ark. App. 1980). In Horton, it was alleged that a lease over a period of years entered into by a county was in violation of the above referenced constitutional provision. Finding no merit to the argument the Arkansas Court of Appeals pointed out that:

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Appellant argues there was no showing the revenues of the county would be sufficient to support the lease payments over a twelve year period and cites City of Little Rock v. The White Co., 193 Ark. 837, 103 S.W. 2d 58 (1937). The burden was upon appellant to prove that the contract incurred an obligation on the part of the county in excess of the revenues for a fiscal year, and no such proof appears in the record. Under the lease the county became obligated to pay rental only currently as the office space is available for use, there is no showing such obligation would exceed revenues for any fiscal year, and the quorum court in 1979 appropriated sufficient funds to pay the rent on the office for all of 1979.

In response to your inquiry then, it is the opinion of this office that until such time as it can be established that a binding agreement over a period of years would exceed total revenues for a particular year (considering only the amount of obligation due in each year) there is no reason to interpret Ark. Stat. Ann. 80-1003 to prohibit agreements of the nature you describe.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General C. Randy McNair, III.

Sincerely,



STEVE CLARK
Attorney General

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