



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

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-183

July 31, 1985

The Honorable Ben Allen
Senator, 22nd District
P. O. Box 2635
Little Rock, AR 72203

Dear Senator Allen:

This is in response to your opinion request wherein you posed the following inquiries:

First, what are the obligations of a school which pays its certified personnel "one hundred percent (100%) of the average salary of certified personnel for the previous year in the states adjoining Arkansas plus the average percent of increase for certified personnel in such states from the second previous year to the previous year" in accordance with § 8 (g) of Act 34 (1st Ex. Sess.), Ark. Stat. Ann. § 80-850.17(g). Is a school district which meets that requirement exempt from the other salary requirements of Act 34? Can a school district and the school's organization which represents the district's certified personnel agree that a certain figure represents the average salary of certified personnel for the previous year in the states adjoining Arkansas plus the average percent of increase for certified personnel in such states from the second previous year to the previous year?

Second, can the amount required to meet a school district's long-term lease payments on such items as school buses and computers be subtracted from gross current revenue in calculating net current revenue under Section 8(c) of Act 34 (Ark. Stat. Ann. § 80-850.17(c))?

Finally, can a school district and the school's organization which represents the district's certified personnel agree to a lesser allocation of school district's funds for salaries of certified personnel than is prescribed by Act 34?

Relevant to your first inquiry are §§ 8 and 11 of Act 34 of

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1983 (First Extraordinary Session) which provide in pertinent part as follows:

For any school year except 1983-84 and 1984-85, each district in the state shall pay its qualifying certified personnel an amount at least equal to seventy percent (70%) of its net current revenue.

Section 8(b), Act 34 of 1983 (First Extraordinary Session).

Any school district whose average salary for certified personnel shall equal, as a minimum, one hundred percent (100%) of the average salary of certified personnel for the previous year in the states adjoining Arkansas plus the average percent of increase for certified personnel in such states from the second previous year to the previous year, shall be exempt from the requirements of this Section. Data for this comparison shall be obtained from the State Education Agencies of the adjoining states.

Section 8(g), Act 34 of 1983 (First Extraordinary Session).

In school year 1985-86 and each school year thereafter, each district in the State shall pay its certified personnel an amount equal to at least seventy percent (70%) of its net current revenue. In such years, not less than eighty percent (80%) of seventy percent (70%) of each school district's increase in net current revenue over the net current revenue received the previous school year less the total salary expenditure required to fund additional certified personnel added to the staff of the district in such school year shall be divided equally among the certified personnel positions existing in the district in such year unless the board of directors of the district and a majority of the teachers agree to a different distribution. The district shall file with the State Board of Education annually a salary schedule for its certified employees which recognizes as a minimum training and experience. This schedule shall reflect the actual pay practices of the district, including all fringe benefits.

Section 11(d), Act 34 of 1983 (First Extraordinary Session).

The obvious discrepancy between Section 8 (b) and Section 11 (d), which both purport to apply to school years 1985-86 and following, is the fact that Section 11(d) does not include

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the exemption for a school district whose certified personnel salaries match those of adjoining states as does subsection (g) of Section 8. In order to read these two sections together then, it is necessary to conclude that as long as a school district's average salaries for certified personnel meet the exemption requirements in §8(g) that school district need not meet the requirement contained in both §11(d) and §8(b) of paying its certified personnel an amount equal to at least seventy percent of its net current revenue. Nonetheless, the particular school district would still be required to devote to its certified personnel salaries an amount "not less than eighty percent (80%) of seventy percent (70%) of [the] school district's increase in net current revenue over the net current revenue received the previous school year" with the exclusions provided by §11(d).

With regard to a school district and its teacher organization agreeing to a figure as accurately representing teacher salaries in adjoining states, this Office can only remind that §8(g) requires that this data be obtained from adjoining states and that auditors will ultimately expect supporting documentation of such a representative figure.

§8(c) of Act 34 of 1983 (First Extraordinary Session) provides as follows:

Net current revenue shall be the gross current revenue as defined in paragraph (b) of this Section less the amount received for state transportation aid, the amount set aside for textbook program aid, and the amount required to meet principal and interest payments on both commercial bonds and any amount due the state revolving loan program.

Inasmuch as the above subsection specifically itemizes those amounts which may be deducted from gross current revenue, it is the opinion of this Office that long term lease payments on such items as school buses and computers may not be subtracted in arriving at net current revenue.

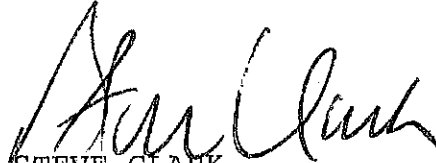
Dispositive of your final inquiry is again §11(d) of Act 34 of 1983 (First Extraordinary Session). Although this subsection does provide for situations under which the board of directors of the district and a majority of the teachers might agree to a different distribution of salary funds

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other than the equal distribution called for in the Act, there is no provision which would allow for a lesser absolute amount of school district funds for salaries of certified personnel than is prescribed by the Act.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark", written in a cursive style.

STEVE CLARK
Attorney General

JSC:CRM:jk