



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

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STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-213

November 7, 1985

Charles L. Robinson
Legislative Auditor
Legislative Joint Auditing Committee
State Capitol Building
Little Rock, AR 72201

Dear Mr. Robinson:

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

1. May association dues for the Arkansas School Boards Association or any other association be paid from school district funds?
2. May school district funds be donated/contributed to the Arkansas School Boards Association, or any other association?

School districts are created by statute and thus may exercise only those powers which are expressly conferred upon them by law, or which must necessarily be implied to enable them to carry out the expressed powers. See Lynn School District No. 76 v. Smithville School District No. 31, 213 Ark. 268, 211 S.W.2d 641 (1948); Nethercutt v. Pulaski County Special School District, 251 Ark. 836, 475 S.W.2d 517 (1972); A. H. Andrews co. v. Delight Special School District, 95 Ark. 26, 128 S.W. 361 (1910). Ark. Stat. Ann. §80-458 (Repl. 1980) statutorily authorizes that:

School Districts in this State may voluntarily, at the discretion of the majority vote of the members of the school board, belong to, and pay dues to, a nonprofit state association of school board officials established for the purpose of compiling and disseminating information, conducting seminars and workshops, and similar programs designed to inform school board members of school problems and to enable school boards to more efficiently perform their respective duties.

Of a somewhat more limiting nature, however, is Amendment 40, Article 14, §3, Amendment No. 11 as amended, which provides as follows:

The General Assembly shall provide for the support of common schools by general law, including an annual per capita tax of one dollar, to be assessed on every male inhabitant of this State over the age of twenty-one years; and school districts are hereby authorized to levy by a vote of the qualified electors respectively thereof an annual tax for the maintenance of schools, the erection and equipment of school buildings and the retirement of existing indebtedness, the amount of such tax to be determined in the following manner:

The Board of Directors of each school district shall prepare, approve and make public not less than sixty (60) days in advance of the annual school election a proposed budget of expenditures deemed necessary to provide for the foregoing purposes, together with a rate of tax levy sufficient to provide the funds therefor, including the rate under any continuing levy for the retirement of indebtedness. If a majority of the qualified voters in said school district voting in the annual school election shall approve the rate of tax so proposed by the Board of Directors, then the tax at the rate so approved shall be collected as provided by law. In the event a majority of said qualified electors voting in said annual school election shall disapprove the proposed rate of tax, then the tax shall be collected at the rate approved in the last preceding annual school election.

Provided, that no such tax shall be appropriated for any other purpose nor to any other district than that for which it is levied.

(Emphasis supplied.)

Based on the above authority it is readily obvious that school districts in Arkansas are authorized to pay dues to a non-profit state association of school board officials. Whether or not school district funds may be used to pay dues to other associations and whether school district funds may be donated/ contributed to the Arkansas School Boards Association or any other association are questions which are not as easily answered.

In addition to Amendment 40 above, Ark. Stat. Ann. §80-509 (Repl. 1980) describes the duties and powers of school directors. Subsection (m) thereof provides that school

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directors may "do all things necessary and lawful for the conduct of an efficient free public school or schools in the district."

Because membership in professional organizations is often necessary to providing an "efficient free public school" system, this Office is not prepared to say that school districts may pay dues only to the Arkansas School Boards Association. However, due to the language in Amendment 40 which proscribes the expenditure of funds outside the school district in which taxes were levied, this Office must conclude that there appears to be no authorization for donations/contributions to the Arkansas School Boards Association or any other association.

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

Sincerely,



STEVE CLARK
Attorney General

JSC:CRM:jk