

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by TERRY GODDARD ATTORNEY GENERAL June 21, 2004	No. I04-005 (R04-013) Re: Provisional Community College Districts and Reimbursements Under A.R.S. § 15-1469
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To: The Honorable Daisy Flores
Gila County Attorney

Question Presented

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 15-1448(H), you submitted for review an opinion addressing the following question: When a county has formed a provisional community college district and has instituted a tax levy pursuant to A.R.S. § 15-1409(J), do tuition reimbursement payments from the county cease at the end of the fiscal year in which the provisional district is formed or two years after the provisional district is formed?

Summary Answer

This Office concurs with your conclusion that the reimbursement payments terminate at the end of the fiscal year in which the provisional community college district is formed if the county approves the levy specified in A.R.S. § 15-1409(J).

Background

Counties that meet minimum statutory thresholds for population and property value may organize community college districts pursuant to A.R.S. §§ 15-1402 to -1407. Until 2002, four rural counties did not have community college districts (“unorganized counties”). The residents of those counties were able to attend community colleges in other counties subject to a tuition reimbursement program set forth in A.R.S. § 15-1469. As long as the county’s share of Transaction Privilege Tax (“TPT”) revenues is less than 1% of the total distributed to all counties, the state Treasurer makes the reimbursement payment to the appropriate community college district and recoups the payment by withholding the equivalent sum from the unorganized county’s TPT revenues. A.R.S. §15-1469.01(A). The Joint Legislative Budget Committee calculates the reimbursement payments by May 15 of each year. A.R.S. § 15-1469(D)(1).¹

In 1999, the Legislature authorized counties that cannot form a community college district to establish provisional community college districts. 1999 Ariz. Sess. Laws ch. 340 (codified in part as A.R.S. § 15-1409). In November 2002, voters in Gila County (previously an unorganized county) approved the formation of a provisional community college district and the levy required by A.R.S. § 15-1409(J). The net levy was to generate \$3 million, which is the sum of reimbursement payments and the cost of community college services provided in the prior fiscal year.

The statute addressing provisional community college districts discontinues the reimbursement established in A.R.S. § 15-1469:

¹ The Legislature transferred the responsibility for the calculations from the State Board of Directors for Community Colleges to the JLBC in 2003. 2003 Ariz. Sess. Laws ch. 264, § 7.

If a provisional community college district is formed in a county that provides reimbursement for the attendance of nonresident state students pursuant to § 15-1469, that *county shall continue to provide reimbursement payments to community college districts for the remainder of the fiscal year in which the provisional community college district is formed*, provided that the county board of supervisors adopts a levy that is at least equal to the sum of the reimbursement payments and the amount of the community college services provided in the fiscal year immediately before the formation of the provisional community college district.

A.R.S. § 15-1409(J) (emphasis added.)

The issue here is whether the reimbursement payments stop after the fiscal year in which the provisional community college district is formed or whether the reimbursement payments stop after the county reimburses community college districts for students who attended community college in another county during the year in which the provisional college district is formed.

The opinion you submitted for review concludes that reimbursement payments stop after the fiscal year in which a county forms a provisional community college district and approves the necessary levy, which for Gila County was fiscal year 2003.

Analysis

The purpose of statutory construction is to discern the intent of the Legislature. *Zamora v. Reinstein*, 185 Ariz. 272, 275 915 P.2d 1227, 1230 (1996). The best indicator of legislative intent is the statutory language. When a statute is ambiguous, one must attempt to determine legislative intent by interpreting the statute as a whole, taking into account its text, subject matter, historical background, effects and consequences, and spirit and purposes. *Id.* In addition, words of a statute are given their ordinary or accepted meaning “unless the legislature has offered its own definition or a special

meaning is apparent from the context.” *State v. Martinez*, 202 Ariz. 507, 510, 47 P.3d 1145, 1148 (App. 2002) (quoting *State v. Barr*, 183 Ariz. 434, 438, 904 P.2d 1258, 1262 (App. 1995)).

In A.R.S. § 15-1409(J), the Legislature provided that a county forming a provisional community college district “shall continue to provide reimbursement payments to community college districts for the remainder of the fiscal year in which the provisional community college district is formed” if the requisite levy is approved in the county forming the community college district. This statutory language indicates that reimbursement payments terminate after the fiscal year in which voters approve the community college district and establish the specified levy requirements.

The fact that the reimbursement formula in A.R.S. § 15-1469 relies, in part, on student count (FTSE) data from a prior fiscal year does not support a different conclusion. A.R.S. § 15-1409(J) expressly addresses the county’s obligation “to provide reimbursement payments.” Its language does not suggest that the county is to continue reimbursement payments in future fiscal years because one element of the reimbursement formula relies on student count data from an earlier fiscal year.

Further, the formula for reimbursement in A.R.S. § 15-1409(J) does not exclusively rely on data from the previous fiscal year. That formula uses student count for the prior fiscal year from the county that did not have an organized community college district, state aid from the current fiscal year, current fiscal year operational expenses, and total full-time equivalent students for the current fiscal year. A.R.S. § 15-1469(B). This calculation is “[t]he amount of reimbursement to [the] district from [the]

county [for the budget year] . . . [f]or students attending classes within the established community college district.” *Id.*

Another canon of statutory interpretation establishes that terms are ordinarily assigned a consistent meaning. *Callender v. Transpacific Hotel Corp.*, 179 Ariz. 557, 560, 880 P.2d 1103, 1106 (App. 1993). Aside from § 15-1409(J), the phrase “for the remainder of the fiscal year” also occurs in two other Arizona statutes: A.R.S. § 15-365 (concerning service programs operated through county school districts) and A.R.S. § 42-17110 (concerning the establishment of a budget in a newly incorporated city or town). For example, subsection (A) of A.R.S. 42-17110 provides:

Notwithstanding any other provision of this article, a city or town that is incorporated after the third Monday in July or before June 30 in any fiscal year may adopt an interim budget by ordinance *for the remainder of the fiscal year in which the city or town was incorporated.*

[emphasis added.]

The phrase “for the remainder of the fiscal year” should be interpreted in a manner consistent with the phrase’s ordinary meaning. Thus, in A.R.S. § 15-1409(J), the phrase “[a] county shall continue to provide reimbursement payments to community college districts for the remainder of the fiscal year in which the provisional community college district is formed” means that the last year in which payments are made is the year in which the district is formed. The Legislature has not evidenced any intent to extend reimbursement payments beyond the fiscal year in which the provisional district and a related levy is approved.

The statutory context also supports this conclusion. The reimbursement terminates only if the county adopts a levy to support the provisional community college district. This seems to anticipate a scenario in which a county might fail to adopt an

appropriate levy to support the provisional community district. Under those circumstances, county residents would have no choice but to continue to attend out-of-county community colleges, thereby creating only a nominal provisional community college district. The statutory scheme creates an incentive to avoid this problem by permitting the county to terminate its out-of-county reimbursement payments only if the county initiates a tax levy to support its own provisional district.² The statutory scheme does not suggest the Legislature intended to oblige the county to continue making out-of-county reimbursement payments for an interim period regardless of whether it instituted a tax levy to support the new district. There is no evidence that the Legislature intended to impose such a burden on a county establishing the provisional district and approving the related funding.

² The legislative history provides no support for extending payments beyond the fiscal year in which the district and the levy are approved. A JLBC Fiscal Note explained the reimbursement process as follows:

The bill requires a county that has formed a provisional community college district to continue reimbursement payments to any community college district for the attendance of the county's nonresident state students for the remainder of the fiscal year in which the provisional community college district is formed. Beyond the first year, community college districts that previously received reimbursements for out-of-county students may sustain a revenue loss for the duration of these students' continued enrollment.

JLBC Fiscal Note, HB 2437 (House Engrossed), 44th Leg, 1st Reg. Sess: (language from HB 2437 incorporated into HB2436 in conference committee amendment).

Conclusion

Under A.R.S. § 15-1469.01(A) reimbursement payments terminate at the end of the fiscal year in which a county establishes a provisional community college district and voters approve the required levy.

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