

SCHOOLS:  
SCHOOL BOARDS:

(1) School districts may form and contribute funds to a voluntary association consisting of several school districts, provided that the activities of the asso-

ciation are within the powers of the participating school districts.

(2) An association so formed may employ and compensate a person with the title of executive director, out of funds contributed by the participating districts.

(3) The said association may take part in activities in support of or in opposition to legislation affecting the participating school districts.

OPINION NO. 167

July 10, 1969

Honorable Robert H. Branom  
State Representative  
Room #407B - 35th District  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Branom:

This official opinion is issued in response to your request of recent date in which you ask the following questions:

1. Whether there is legal authority permitting school districts in St. Louis County to join and contribute to an organization known as the Cooperating School Districts for the St. Louis Suburban Area;

2. Whether such an organization "can use school funds for the salary of an executive director;" and

3. Whether the organization "can take part in legislative action on specific legislative proposals."

It is convenient to consider the third question first. Such question is as to the validity of expenditure of school funds for legislative activities.

Although the earlier cases showed some diversity of opinion, the more recent cases hold that a local governmental unit is not prohibited from spending money for the purpose of supporting or opposing legislative proposals affecting its interest. The cases are collected in 15 McQuillan, Municipal Corporations (3d. ed.), Section 39.23. No Missouri cases are cited.

Honorable Robert H. Branom

In Reilly v. Ozzard, 33 N.J. 529, 166 A. 2d 360 (1960), the Supreme Court of New Jersey stated:

"That local government has the right to seek or to oppose legislation affecting its interests is settled. . . ."

In Hays v. City of Kalamazoo, 316 Mich. 443, 25 NW 2d 787 (1947), the Supreme Court of Michigan held that a city could pay dues to an organization known as the Michigan Municipal League, which concerned itself with legislative matters and other matters of interest to cities.

In Schuerman v. State Board of Education, 284 Ky 556, 145 SW 2d 42 (1940) the Court of Appeals of Kentucky held that a school district could pay dues to the Kentucky School Boards Association, which had the purpose, among others, to "Work for educational legislation that will promote the best educational interests of the children of Kentucky." The case is particularly helpful here because Kentucky has a constitutional provision relating to school funds which is similar to Article IX, Section 5 of the Constitution of Missouri. (See below)

It is common knowledge that cities, counties and other local governmental units retain legislative representatives and sponsor legislative programs. Under current conditions these local units have important business with the legislature. We perceive no reason for distinguishing between municipalities and school districts. We are confident that the Missouri courts would follow the line of authorities just cited and would hold that a school district may engage in legislative activities without violating Article IX, Section 5, which provides that the state public school fund:

". . . shall be faithfully appropriated for establishing and maintaining free public schools, and for no other uses or purposes whatsoever."

Since legislation may be of great importance in the establishment and maintenance of free public schools, the expenditure of school funds in relation to legislation affecting the school district is an expenditure for school purposes.

Your second question asks whether school districts can form and contribute to an association.

Since school districts may expend their funds in connection with legislation, they may combine and cooperate with other districts for this purpose.

Honorable Robert H. Branom

The cases of Hays v. City of Kalamazoo, and Schuerman v. State Board of Education, both cited above, are important with regard to this question. The former upheld a contribution to a municipal league by a city, and the latter dealt with a contribution to an association of school boards by a local school district. Both courts permitted the contributions, without express statutory authority for the establishment of the association.

The authority for cooperation is ever stronger in Missouri by reason of Section 70.220 RSMo which reads as follows:

"Any municipality or political subdivision of this state . . . may contract and cooperate with any other municipality or political subdivision. . . for a common service; provided that the subject and purposes of any such cooperative action made or entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. . . ."

The statute was adopted to implement Section 16 of Article VI, of the Constitution of Missouri, which contains similar language. Section 70.210(2) RSMo Supp. 1967, provides that a school district is a "political subdivision of the state" within the meaning of Section 70.220 and related sections of the statutes.

The formation of a voluntary association is an appropriate means for cooperation, particularly for districts limited in size and resources. We see no reason, therefore, why school districts could not form such an association to carry on legislative activities and other activities which would be proper for the individual districts.

Your request does not indicate any purpose for the Cooperating School Districts of the St. Louis Suburban Area, other than for activities relating to legislation. We express no opinion as to the propriety of any other activities, except to observe that the association could engage in only such activities as would be within the powers of the individual districts.

Your third question asks whether the association can compensate an executive director.

Since the several districts have the authority to form a voluntary association for proper purposes within their powers, the association may employ and compensate persons in the pursuit of its objectives. There is no reason why the association could not give a person so employed the title of "Executive Director" or any other title deemed appropriate. The conferral of the title, of course, would not give him any authority either on behalf of the association or on behalf of the participating districts, except such as is

Honorable Robert H. Branom

specifically conferred upon him.

CONCLUSION

It is the opinion of this office that:

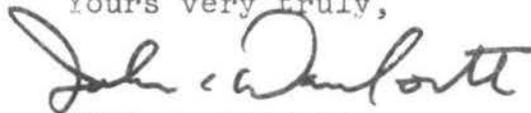
1. School districts may form and contribute funds to a voluntary association consisting of several school districts, provided that the activities of the association are within the powers of the participating school districts.

2. An association so formed may employ and compensate a person with the title of executive director, out of funds contributed by the participating districts.

3. The said association may take part in activities in support of or in opposition to legislation affecting the participating school districts.

The foregoing opinion, which I hereby approve, was prepared by my Special Assistant, Charles B. Blackmar.

Yours very truly,



JOHN C. DANFORTH  
Attorney General