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October 3, 2006

John Etchepare - Director
Wyoming Department of Agriculture
2219 Carey Avenue
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RE: Conservation District Expenditures

Dear Mr. Etchepare:

You have requested our opinion on the following question:

Can the Saratoga-Encampment-Rawlins Conservation district offer a scholarship to a student pursuing a degree in natural resources or an agricultural field using self-generated funds?

Short Answer: No, please see discussion below.

DISCUSSION

Any attempt to ascertain the powers of an administrative agency must begin with the proposition that only those powers expressly conferred by the legislature are granted to an agency. *Brasel and Sims Const. Co., Inc. v. State Highway Comm'n of Wyo.*, 655 P.2d 265, 267 (Wyo. 1982). “[A]n administrative agency, as a creature of statute, must limit its activities to those authorized by the legislature.” *Wyo. Dep’t of Revenue v. Michael T. Guthrie*, 2005 WY 79, ¶18, 115 P.3d 1086, 1093 (Wyo. 2005). Accordingly, statutory law and administrative regulation enacted in accordance with statutory law defines the scope and limitation of the conservation districts’ authority in all matters.

The powers and duties of conservation districts are found in WYO. STAT. ANN. § 11-16-122. (See attached). Nowhere within this statute or the Wyoming Conservation Districts

Law has the legislature granted conservation districts the power to fund and award scholarships. "The omission of words from a statute is considered to be an intentional act by the legislature, and the Supreme Court will not supply words in the process of interpretation." *Fullmer v. Employment Sec. Comm'n*, 858 P.2d 1122,1124 (Wyo. 1993). The Court has often stated that it will not construe a statute to enlarge or extend its application or read into the statutory provision's language that is not present. *Phillips v. Duro-Last Roofing, Inc.*, 806 P.2d 834, 836 (Wyo. 1991). The plain language of WYO. STAT. ANN. § 11-16-122 does not allow conservation districts to award scholarships. "When a statute is sufficiently clear and unambiguous, we give effect to the plain and ordinary meaning of the words and do not resort to the rules of statutory construction." *Sponsel v. Park County*, 2006 WY 6, ¶ 9, 126 P.3d 105, 108 (Wyo. 2006). A contrary interpretation would effectively add language to the statutes and would go beyond the power granted to conservation districts. If the legislature had intended to grant conservation districts the authority to award scholarships it could have easily expressed that intent in the statutes.

The legislature has concerned themselves with scholarship appropriation through the creation of endowment accounts. In 2005, the Wyoming Legislature created the Excellence in Higher Education Endowment Account and the Hathaway Student Scholarship Endowment Account. WYO. STAT. ANN. §§ 21-16-1201 through 1204. Funds were then appropriated for each of these accounts in accordance with the purposes set forth in Article 12 such as, faculty recruitment and student scholarship awards at the University of Wyoming. The legislature has created conservation districts for the purpose of conserving Wyoming's soil and water resources, not for awarding scholarships.

This conclusion is further supported by an opinion issued by the Attorney General's Office dated July 11, 1986. (See attached). The 1986 opinion states:

At least one district wants to use its surplus to give awards and college scholarships. No statutory provision exists which would allow this. It is not among the enumerated powers of districts under §11-16-122. These districts are created to further conservation of soil and water resources.

In conclusion, allowing individual conservation districts to use any surplus funds toward the provision of scholarships and other awards is not within the purview of the powers envisioned by their creation.

This 1986 opinion advises that conservation districts may not award scholarships. However, clarification is now sought as to whether the 1986 opinion still applies if the

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conservation district were to fund the scholarships with self-generated money. Jean Runner, of the Saratoga-Rawlins-Encampment Conservation District, has indicated that the conservation district generates money from the rental of a building and other small endeavors. Although, the 1986 opinion dealt with surplus funds, it still applies. The origin of the funding is not the determinative factor. As explained above, conservation districts, as subdivisions of the state, only have the power granted to them by the legislature. Without the power to award scholarships, it is immaterial whether the proposed scholarship funds are self generated.

Finding no ambiguity in WYO. STAT. ANN. § 11-16-122 and being able to clearly discern the intent of the legislature from the statutory language, it is this Office's advice that the Saratoga-Encampment-Rawlins Conservation District does not have the statutory authority to use any of its funds, no matter the source, to award scholarships.

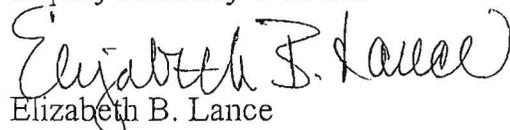
Please contact our office with any further questions.



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