

THE STATE



OF WYOMING

ED HERSCHLER
GOVERNOR



State Conservation Commission

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STATE EXECUTIVE
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POWDER RIVER
CONSERVATION DISTRICT
P. O. Box H -- Kaycee, Wyoming

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August 27, 1986

TO: Conservation District Chairmen
Conservation Commission Members

FROM: Bill Gentle
State Executive *RG*

SUBJECT: Attorney General's Opinion on College Scholarships

I am attaching a copy of an Attorney General's opinion dealing with College Scholarships which was requested by the State Auditor's Office.

The opinion is very straight forward and prohibits conservation districts from awarding college scholarships.

The opinion states that college scholarships in Wyoming are funded by the legislature through the University and the Community Colleges and that conservation districts do not have direct statutory authority to award these scholarships.

I realize that I originally recommended the scholarships, and I apologize for my poor recommendation.

After the beating we took at the hands of the legislature last winter I believe we are going to have to take this opinion very seriously. The second paragraph on the second page of this opinion states "These districts are created to further conservation of soil and water resources." We are all going to have to figure out how to spend our limited dollars in the best manner possible to accomplish this mission.

The last paragraph of this opinion is certainly interesting, although I am not sure exactly what it really means. I think they are saying that at the present time no one can order a district to dispose of surplus funds nor can the state arbitrarily come and cease the funds. I do believe that it is a straightforward warning that if we do not clean-up our own house the legislature will do it for us.



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In reply refer to:

Attorney General

CHEYENNE, WYOMING 82002
PHONE 307 777-7841

July 11, 1986

M E M O R A N D U M

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ED H. BRIDGES
GOVERNOR

1986 AUG 22 AM 10:38
A.G. McCLINTOCK
ATTORNEY GENERAL
WYOMING STATE AUDITOR

File

TO: Peter J. Mulvaney
Deputy Attorney General

FROM: *A.R.* Alex Radich
Legal Intern

RE: Surplus Conservation District Funds

QUESTION: Must conservation districts use all funds allocated to them toward the operation of the district or may they do such things as give awards and college scholarships?

ANSWER: The districts may not give awards and college scholarships.

DISCUSSION

Under §11-16-109 of the Wyoming Statutes, the State Conservation Commission is empowered with the authority, pursuant to hearings, to establish conservation districts. These districts, in turn, submit budget estimates to the Commission as per §11-16-107(b). Following receipt of such requests, the Commission, in accordance with §11-16-105(a)(v), distributes funds to the conservation districts.

This funding mechanism has posed problems for the Commission in that at the present time the Commission has no rules and regulations, as required by §11-16-105(a)(v), governing the use of funds by conservation districts. Last week, rules were promulgated, not enacted, dealing with grants to conservation districts. These rules, however, do not deal with use of funds by the districts. Use of the funds by the individual districts is the source of the problem. In the past, the amount of general fund monies appropriated to the State Conservation Commission was divided equally among the districts. No account was taken as to the needs of respective districts, and, consequently, some districts consistently ended up with surplus funds while others did not have enough. Therein arises the problem of

Peter J. Mulvaney

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what these districts with surplus funds can do with those funds. The Commission rules and regulations that have not formally been enacted yet would seem to eliminate the problem of surplus funding by providing guidelines governing the amounts of grant money to be furnished to each district.

Notwithstanding the Commission's new rules, surplus funds remain in some districts from past practices. 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. Only with an infinitely tenuous interpretation of this purpose could one justify the handing out of scholarships--and then only to students specifically studying soil or water conservation--as being in furtherance of the purposes behind its creation.

Scholarship appropriation, among other items, is handled by the legislature pursuant to a specific budget request made by the University of Wyoming and other community colleges. The money comes from the general fund, as there is no specific scholarship fund. W.S. §9-4-204(b). Such funds are then provided by the State to the University for its support and maintenance. W.S. §21-17-107. The University, in turn, awards the scholarships.

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 at their creation. Statutory sections which have heretofore been cited painstakingly delineate the powers these districts have. As far as suggestions for what to do with these surplus funds, two options readily come to mind. The first option is for the legislature to enact a statute addressing disposition of surplus funds. At present, Wyoming has no such statute, save §9-4-823. Colorado, on the other hand, has enacted a statute which makes it possible for districts to apply any surplus funds toward "retiring bonds, reducing the rate of assessment, or for accomplishing any other of the legitimate objects of the district." C.R.S. §37-5-119(1). In California, the director of any conservation district with surplus funds must place those funds in a "surplus money account" in the treasury of the principal county. A.C.C. Pub.R. §9529-9530. The second option is for the Commission or the legislature to provide that districts with surplus funds must financially assist those districts with inadequate funding. In Colorado, statutory provision is made for cooperation between districts when such need arises. C.R.S. §35-70-121. Absent these options, districts themselves may not use their funds to hand out scholarships or awards, as the authority to appropriate funds for scholarships comes under the aegis of the state legislature.

AR:al