

established. The legislature could not, without rendering the mandates expressed in the aforequoted paragraph 1 [art 5, § 28] completely nugatory, enact a law transferring those functions to the supervisory control of another agency or department.”

This opinion further notes the following on page 6:

“Appurtenant facilities are those facilities that are related in some measure to state trunkline highways. A thing is appurtenant to something else when it stands in the relation of an incident to a principal and is necessarily connected with the use and enjoyment of the latter. *McClintock-Marshall v Ford Motor Co.* (1931), 254 Mich. 305.

“The legislature has authorized the State Highway Commission to provide for facilities appurtenant to the state trunkline highway system. Under Act 295, P.A. 1966, as amended, M.C.L.A. 1970 P.P. § 213.361, the State Highway Commission may acquire land adjacent to the state trunkline highways for use as roadside parks, provide for parking spaces, rest areas, scenic areas, scenic lookouts and information lodges. Moreover the statute authorizes the State Highway Commission to acquire lands adjacent to state trunkline highways for construction of flight strips for the landing and taking off of aircraft in order to insure greater safety for traffic.”

Therefore, in answer to your question, jurisdiction and control over Tourist Information Centers which are appurtenant to state trunkline highways may not be transferred from the Department of State Highways and Transportation to the Department of Commerce.

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**SCHOOLS AND SCHOOL DISTRICTS: Authority to expend funds to assist a township**

A school district may not contribute funds to a township to defray the legal fees incurred by the township in a valuation appeal before the Michigan tax tribunal.

Opinion No. 4963

April 8, 1976.

Honorable Richard J. Allen  
State Senator  
The Capitol  
Lansing, Michigan

You have requested my opinion on the following question:

“May a school district expend funds to defray or help defray the legal fees incurred by a township in defense of valuation appeals before the Michigan Tax Tribunal?”

In answering your question it must first be noted that school districts and

townships are separate and distinct governmental entities. OAG, 1973-1974, No 4819, p 152 (June 10, 1974).

School districts have only such powers as the legislature confers upon them expressly or by reasonably necessary implication. *Senghas v L'Anse Creuse Public Schools*, 368 Mich 557; 118 NW2d 975 (1962). Therefore, the power of a board of education to act in the manner in question must be found either explicitly or by reasonably necessary implication in the statutes enacted by the Michigan legislature.

An examination of the provisions of 1955 PA 269, as amended; MCLA 340.1 *et seq*; MSA 15.3001 *et seq*, hereinafter referred to as the School Code of 1955, reveals that the legislature has not expressly authorized school districts to expend funds to defray any portion of the legal fees incurred by townships in valuation appeals before the Michigan tax tribunal.

Section 609 of the School Code of 1955, *supra*, grants power to the board of education to employ an attorney under the following conditions:

"The board shall have authority to employ an attorney to represent the school district or board in all suits brought for or against the district, and to render such other legal service as may be for the welfare of the school district."

Nowhere in this section is there any permission to contribute to the fee of another governmental entity's attorney, but only to employ its own counsel in cases in which the school district is a party.

It should be noted, however, that a school district may intervene in a valuation appeal before the Michigan tax tribunal.

Intervention before the Michigan tax tribunal is controlled by MCLA 205.744; MSA 7.650(44) which provides:

"The tribunal may permit the intervention or impleading of a state or local governmental unit or officer thereof or any person or other entity upon a showing of a material monetary interest in the decision of the tribunal which is not likely to be adequately presented by the parties to the proceeding."

The cited section would allow intervention by a school district when, in the sound discretion of the tax tribunal, the requirements for intervention have been shown by the school district. Once admitted as a party, or for the purpose of seeking intervention as a party, a school district may properly pay legal fees incurred by it in connection with valuation proceedings before the tax tribunal.

It is, therefore, my opinion that school districts may not contribute funds to help defray the legal fees incurred by a township in a valuation appeal before the Michigan tax tribunal.

FRANK J. KELLEY,  
*Attorney General.*