

restricted from entering into partnerships. Foreign corporations seeking authorization to do business in Michigan are equally restricted.

It is, therefore, my opinion that a foreign corporation may not be admitted to Michigan "for the purpose of forming a partnership in Michigan," since there is no authority in the Michigan General Corporation Act for a corporation, whether domestic or foreign, to form a partnership.

FRANK J. KELLEY,
Attorney General.

651028.1

COLLEGES AND UNIVERSITIES: Saginaw Bay State College – Establishment as state institution for higher education.

The Saginaw Bay state college authorized by the provisions of Act 278, P.A. 1965, shall become a state institution of higher education when its board of control has in its possession and control the sum of \$4,000,000.00, as money paid in hand, valid subscriptions, pledges and obligations which are bona fide obligations of responsible, solvent persons and are enforceable by law in the total minimum amount required by the act.

No. 4475

October 28, 1965.

Hon. Jerome T. Hart
State Senator
Lansing, Michigan
Hon. Sanford E. Charron
State Representative
Lansing, Michigan

You request my opinion on the following question:

"Whether the provisions of Act 278, P.A. of 1965, requiring the Board of Control to 'raise the sum of \$4,000,000 . . . by a method other than state and local taxation, within 120 days of the effective date,' has been met by (1) the transfer within said period of existing assets of Saginaw Valley College, which consists in part of pledges of foundations, corporations and individuals in an amount of approximately \$3,700,000, or (2) the entering into of a contract between Saginaw Bay State College and Saginaw Valley College for the future transfer of assets having a present value of in excess of \$4,000,000 (including the approximate \$3,700,000 of unpaid pledges)?"

Act 278, P.A. 1965, being M.S.A. Cur. Mat. § 15.1852(51) et seq., provides for the establishment of a state institution of higher education to be known as Saginaw Bay State College.

In Sec. 1 of the act the legislature has provided that there is established a state institution of higher education known as Saginaw Bay State College to be located in a 3-county area comprising the counties of Bay, Midland and Saginaw.

Sec. 2 of the act establishes a "board of control" to consist of 8 members to be appointed by the governor with the advice and consent of the senate for terms of 8 years, except that six of the members first appointed will serve lesser terms in accordance with the act.

Sec. 4 of the act states:

"The board of control, with the approval of the state board of education and the Michigan legislature, shall be responsible for the selection and acquisition of a suitable site for the location of the Saginaw Bay state college and shall raise the sum of \$4,000,000.00, which sum shall include the value of the site, by a method other than state and local taxation, within 120 days of the effective date of this act, which amount shall be deemed the minimum amount of assets required to become a state institution of higher education pursuant to the provisions of this act."

Reading these sections together, it is clear that the institution known as Saginaw Bay State College shall become a state institution of higher education only when its board of control shall raise the sum of \$4,000,000.00, which sum shall include the value of the site, within 120 days of the effective date of the act.

Act 278 was given immediate effect by the legislature and was approved by the governor on July 22, 1965.

Research fails to disclose any decision of the Michigan Supreme Court defining the term "raise" when it appears in a statute which imposes a duty upon a board of control to raise a sum of money as a condition precedent to the state institution under its control becoming a state institution of higher education.

In *University of Vermont v. Wilbur's Estate*, 163 A. 572, 577 (Vt. 1933), the Vermont Supreme Court has defined the term "raise," when used to describe a condition of a gift to a public university that it should "raise" a specified sum for the same purpose, to include not only money paid in hand, but also subscriptions, pledges and obligations by responsible, solvent persons which legally bind the obligors to pay and which are enforceable by law. *Livingston, et al v. Lenox College, et al*, 185 N.W. 122 (Iowa 1921); *St. Paul's Episcopal Church, et al v. Fields, et al*. 72 A. 145 (Conn. 1909).

It must be observed that the legislature has given the board of control only 120 days in which to raise the sum of \$4,000,000.00 and has proscribed any tax moneys, state or local, as means by which to raise such sum. It must follow that the legislature fully expected the board of control to raise such sum by popular subscription and pledges, payable in the future, and such raising of money is universally taken and considered as in compliance with such a proscribed condition. *Livingston v. Lenox College*, supra.

Therefore, it is my opinion that Saginaw Bay State College shall become a state institution of higher education when its board of control shall raise the sum of \$4,000,000.00 in that it has in its possession money paid in hand, valid subscriptions, pledges, and obligations which are bona fide

obligations of responsible, solvent persons, enforceable by law, in the total minimum amount required by Sec. 4 of Act 278, P.A. 1965, supra.

The condition precedent set forth by the legislature in Sec. 4 of Act 278, P.A. 1965, supra, is not met by a contract between the board of control of Saginaw Bay State College and Saginaw Valley College, wherein Saginaw Valley College would transfer assets in the sum of \$4,000,000.00 at some future date but not within 120 days after the effective date of Act 278, P.A. 1965, to the board of control of Saginaw Bay State College. Unless such assets are in the possession and control of the board of control of Saginaw Bay State College during the statutory period, the board of control has not fulfilled the condition precedent to the state institution under its control becoming a state institution of higher education, pursuant to the provisions of Act 278, P.A. 1965.

FRANK J. KELLEY,
Attorney General.

651101.1

SCHOOLS: Districts—Reorganization.

TAXATION: Tax limitation increases.

The territory of school districts attached pursuant to the provisions of Act 289, P.A. 1964 to a school district in which a tax limitation increase for operating purposes is in effect is subject to such tax limitation increase without the approving vote of the qualified school electors of the territory attached.

Where the qualified electors of an intermediate school district vote upon and disapprove a reorganization plan calling for one proposed local school district composed of the entire area encompassing an intermediate school district under method 1, Sec. 7 of Act 289, P.A. 1964, requires that a second election be held under method 2.

The intermediate district committee, subject to review by the state committee, is empowered to modify a reorganization plan disapproved under method 1 by the qualified electors of the intermediate school district which would have provided for one proposed local school district composed of the entire area encompassing the intermediate school district so that the reorganization plan would call for two or more proposed local school districts within the intermediate school district before such plan is resubmitted for approval of qualified electors in the respective proposed districts under method 2.

No. 4458

November 1, 1965.

Mr. Alexander J. Kloster
Acting Superintendent
Department of Public Instruction
Lansing, Michigan

You have requested my opinion on the following questions:

"1. When an intermediate area study committee proposes to attach one or more non-high school districts to an existing high school district