

notice may be required as a matter of due process when, under appropriate circumstances, the possible injury to the interests of the mother and child are outweighed by the father's interest in preserving his rights.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTION OF MICHIGAN: Art 5, § 28

HIGHWAYS AND ROADS: Jurisdiction of State Highway Commission

Jurisdiction and control over tourist information centers appurtenant to state trunkline highways may not be transferred from the Department of State Highways and Transportation to the Department of Commerce.

Opinion No. 4962

April 8, 1976.

Hon. Casmer P. Ogonowski
State Representative, Chairman
Tourist Industry Relations Committee
State Capitol
Lansing, Michigan 48901

This is in response to your request for my opinion as to whether Highway Funds can be used for administration and staffing of Tourist Information Centers if they were transferred to the jurisdiction of the Travel Commission.

In your letter you state that you have introduced House Bill No. 5752 which would transfer, by a type II transfer, the administration and operation of the Tourist Information Centers, now under the jurisdiction of the Department of State Highways and Transportation, to the Michigan Travel Commission within the Department of Commerce.

The State Highway Commission is a constitutional body. It was established by Const 1963, art 5, § 28 which in part reads:

"There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and *appurtenant facilities*, and such other public works of the state, as provided by law." (Emphasis supplied)

The above-quoted constitutional provision established the Department of State Highways and Transportation and gives the Commission jurisdiction and control of all state trunkline highways and appurtenant facilities. In OAG 1971-1972, No 4713, pp 3, 4 (January 20, 1971) states with respect to Const 1963, art 5, § 28:

"The language is unambiguous and expresses the mandate that only the State Highway Commission shall administer the highway department and exercise control over state trunkline highways and appurtenant facilities. . . .

"The scheme is so plain as to leave no doubt that the legislature is thus limited in respect of its power over the highway commission as

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.

FRANK J. KELLEY,
Attorney General.

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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