

**The Honorable Lisa Graham Keegan
Superintendent of Public Instruction**

**January 7, 1999
Re: I99-002(R98-026)**

Question Presented

You have asked for an opinion on whether a joint technological education district ("JTED") may include excess utility costs in its budget and whether it is authorized to utilize a budget balance carry forward.

Summary Answer

The Legislature has not provided statutory authority for a JTED to include excess utility costs in its budget or to implement a budget balance carry forward.

Background

In 1990, the Legislature authorized school districts to join together to form a JTED. 1990 Ariz. Sess. Laws ch. 248, amended by ch. 399, § 23 (now codified as Arizona Revised Statutes Annotated ("A.R.S.") §§ 15-391 through -396). Formation of a JTED requires significant study and planning, approval by the school district governing boards and the qualified electors of each participating district, and endorsement from the State Board for Vocational and Technological Education. A.R.S. § 15-392(A)-(B). Once approved and established, a JTED is managed and controlled by a special governing board, A.R.S. §§ 15-392(D) and 15-393, and is subject to fourteen different sets of education-related statutes, including General Provisions for School District Budgets. A.R.S. § 15-393(C). In 1990, the Legislature also specifically established the components for the general budget limit of a JTED. A.R.S. § 15-947.01. Unlike a standard school district, which has general authority to include excess utility costs⁽¹⁾ in its budget, A.R.S. § 15-910, a JTED has statutory budget limit components that exclude excess utility costs. A.R.S. § 15-947.01.

Analysis

The fundamental rule of statutory construction is to determine the Legislature's intent. *City of Phoenix v. Superior Court*, 139 Ariz. 175, 178, 677 P.2d 1283, 1286 (1984). Review of the statutes applicable to a JTED leads us for several reasons to conclude that the Legislature has not authorized a JTED to budget for excess utility costs. First, if a general and specific statute on the same subject are inconsistent, then the specific statute will control. *See Arden-Mayfair, Inc. v. State Dep't of Liquor Licenses & Control*, 123 Ariz. 340, 342, 599 P.2d 793, 795 (1979). Here, the Legislature established specific budget limit components for a JTED that, unlike the budget components for a school district, exclude excess utility costs. Second, a JTED is created for a special purpose, has only limited powers, and cannot exercise other powers unless they are expressly or impliedly granted. *See Olmsted & Gillelen v. Hesla*, 24 Ariz. 546, 551, 211 P. 589, 590 (1922). Section 15-947.01, A.R.S., expressly limits the JTED's budget components. An Attorney General may not augment that authority by overlooking the direct legislative restriction. *Cf. In re Adoption of Wilcox*, 68 Ariz. 209, 213, 204 P.2d 168, 170 (1949) (where a statute

expresses the legislative intent in no uncertain language, courts will not presume that words in an earlier statute should be extended beyond their obvious meaning). Finally, if the specific budget limit components for a JTED established by the Legislature in A.R.S. § 15-947.01 were disregarded, that provision would be rendered purposeless. Such an interpretation would contravene the presumption that the Legislature did not intend a futile act by including a provision that is trivial or not operative. *See Patterson v. Maricopa County Sheriff's Office*, 177 Ariz. 153, 156, 865 P.2d 814, 817 (App. 1993). Consequently, a JTED is not statutorily authorized to include excess utility costs in its budget.⁽²⁾

Likewise, the budget balance carry forward provisions of A.R.S. § 15-943.01, by their language, apply solely to "the governing board of a school district." The Legislature did not include these provisions in the JTED enabling legislation, either directly or by reference. *See Collins v. Stockwell* 137 Ariz. 416, 420, 671 P.2d 394, 398 (1983) (courts will not read into a statute something that is not within the manifest intent of the Legislature as gleaned from the statute itself). Consequently, there is no legal basis for suggesting that a JTED may make use of a budget balance carry forward.

Applying traditional rules of statutory construction leads to the inescapable conclusion that a JTED does not have statutory authority to either include excess utility costs or to implement a balance carry forward in its budget. The Legislature controls these statutes and can amend them to allow a JTED to alter its budget.

Conclusion

The Legislature has not provided statutory authority for a joint technological education district to include excess utility costs as part of its budget or to implement a budget balance carry forward.

¹ Excess utility costs generally include direct operational costs of heating, cooling, water and electricity, telephone communications, and sanitation fees. A.R.S. § 15-910(A).

² The amendments to A.R.S. § 15-910.02 do not affect a JTED's inability to include excess utility costs in its budget. By its plain language, this provision deals with a situation where a *school district governing board* undertakes measures to reduce excess utility costs and to conserve energy. The meaning of this statute is clear from the plain language of the provisions, so we do not need to look beyond that language. *See Board of Educ. v. Leslie*, 112 Ariz. 463, 465, 543 P.2d 775, 777 (1975) (if the language of a statute is plain and unambiguous, one need not look further to determine the Legislature's intent).

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