



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

Robert Scott
Commissioner

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MAY 02 2008

OPINION COMMITTEE

FILE # ML-45668-08
I.D. # 45668

April 30, 2008

Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711

RQ-0710-GA

Re: Constitutionality of Expenditures by a School District for Traffic Violations

Dear General Abbott:

On behalf of the College Station Independent school District, I am requesting your opinion regarding the constitutionality of expending district funds to pay a civil fine under Chapter 707 of the Texas Transportation Code. Attached is their inquiry, which I believe is best answered by your office as it deals with both constitutional provisions and statutes not administered by this agency.

We appreciate your attention to this matter. Should you need any additional information, please feel free to contact me or the following TEA staff: David Anderson, General Counsel at (512) 463-9720 or Holland Timmins, PSF Executive Administrator (512) 463-9159.

Sincerely,

Robert Scott
Commissioner of Education

Enclosed Attachments

RS/da/ds

Chris G. Elizalde
Attorney at Law

WALSH, ANDERSON,
BROWN, SCHULZE
& ALDRIDGE, P.C.

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512/454-6864, Ext. 611

ATTORNEYS AT LAW

April 15, 2008

Mr. Robert Scott
Commissioner of Education
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701

Via Facsimile: (512) 463-9008
and First Class Mail

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APR 16 AM 9:06
LEGAL SERVICES

Re: Request for Legal Opinion

Dear Commissioner Scott:

This letter is to follow up on my conversation last week with General Counsel David Anderson regarding our client, College Station Independent School District. Our client is seeking assistance in the form of an Attorney General Opinion, or in the alternative, a letter from your office to the District related to the expenditure of public funds for a particular purpose.

The City of College Station has implemented a red-light camera program under the authority of the new provisions of the Transportation Code, Chapter 707. Based on the state law, the City generally has authority to use the cameras at certain intersections and issue citations to vehicle owners. The new legislation creates a civil fine or penalty against the owner of the vehicle that is photographed while driving through a red light.

However, the legislation does not address vehicle owners who are governmental entities and whose only funds are public funds. Our client has great concerns regarding the effect of the new statute in that the District could be expected and required to pay a civil fine from public funds. The City officials have suggested that the District require reimbursement from any offending employee; however, short of an unlawful garnishment of wages, there is no guarantee that the District can effectively recoup those expenditures. The District is unauthorized to deduct funds from an employee's salary without the written consent of the employee as required under Texas Education Code Section 22.002.

The issue is whether College Station ISD may be cited or ticketed for a violation by one of its employees such that the school district is legally responsible for payment of the fine out of tax dollars. Although the new legislation addresses liability by imposing the fine on the vehicle owner and creates a specific exception for rental car companies, it does not address such liability where the owner is a public entity. As you know, public entities are limited by Texas Constitutional provisions in the expenditure of funds. Tex. Const. Art. III, Section 51, 52. The Texas Constitution bars the

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Legislature from authorizing "any county, city, town or other political corporation or subdivision of the State to grant public money or thing of value in aid of, or to any individual, association or corporation." Under these two provisions of the Texas Constitution, we question whether the District may use public funds for payment of the traffic citations at issue.

On behalf of the College Station ISD, we are requesting that you consider in your capacity as Commissioner of Education the submission of a request to the Attorney General for an official opinion. It is important to establish guidance for school districts in their expenditure of public funds for the purpose of payment of civil fines, with or without reimbursement from employees who actually violated the traffic laws to the extent established under the red-light camera system. In the alternative, we request guidance from your office related to the payment of such fines with public funds.

If you have questions or require additional information, please do not hesitate to contact me.

Sincerely,



Ms. Chris G. Blizalde

CGE/aw

cc: Ms. Carla A. Robinson
City of College Station, Legal Department
1101 Texas Avenue
College Station, Texas 77842

Via First Class Mail

David Anderson, General Counsel
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701

Via Facsimile: (512) 475-3662

Dr. Eddie Coulson, Superintendent
Mr. Mike Ball, Deputy Superintendent
College Station Independent School District
1812 Welsh Avenue
College Station, Texas 77840

Via Facsimile: (979) 764-5535

Via Facsimile: (979) 764-5618