TO: Assessing Officers
FROM: State Tax Commission

No. 8, July 9, 1985
Attorney General Opinion
Cost Sharing-Valuation Appeals

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

SCHOOLS AND SCHOOL DISTRICTS: Authority to expend funds to assist a township in a valuation appeal before the tax tribunal

The Legislature has expressly authorized a school to contribute funds to assist a township defray legal fees incurred in a valuation appeal before the Michigan Tax Tribunal in excess of the 1% property tax administration fee collected by the township. OAG, 1975-1976, No 4963, p 375 (April 8, 1976), which concluded that a school district lacked statutory authority to make such a contribution, is no longer controlling.

Opinion No. 6297

JUN 3 1985

Honorable Joe Conroy
State Senator
403 State Capitol
Lansing, MI 48909

You have requested my opinion on a question involving the contribution of funds to help defray the expenses of a local unit of government in defending a property tax assessment. Specifically, you ask:

> "May a school district or other taxing unit contribute to the defense by the assessing unit in defending an attack on the assessments before the Michigan Tax Tribunal and Courts?"

This particular question has been the subject of a previous opinion. In OAG, 1975-1976, No 4963, p 375 (April 8, 1976), it was concluded that 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. The opinion stated that while the school district may seek to intervene in such appeal, it was without statutory authority to contribute to the payment of legal fees incurred by another governmental unit.

Since that opinion was issued, there has been a statutory change which requires a different answer to the question. 1982 PA

Reproduced by the State of Michigan

503 amended MCL 211.44(3); MSA 7.87(3), by adding the following pertinent language:

> "Except as provided by subsection (7), on a sum voluntarily paid before February 15 of the succeeding year, the local property tax collecting unit shall add 1% for a property tax administration fee....A property tax administration fee is defined as a fee to offset costs incurred by a collecting unit in assessing property values, collecting the property tax levies, and in the review and appeal processes. The costs of any appeals, in excess of funds available from the property tax administration fee, may be shared by any taxing unit only if approved by the governing body of the taxing unit." (Emphasis added.)

There is no doubt that a school district is a "taxing unit" inasmuch as it can levy millages.

The cost of valuation appeals are to be born by the local collecting unit primarily from the 1% property tax administration fee imposed by MCL 211.44(3); MSA 7.87(3). In addition, the Legislature has now authorized school districts to contribute funds to another local unit of government to help offset the costs of property valuation appeals in excess of moneys collected under the tax and administration fee assessment. The only restrictions are that the cost of the appeal must be in excess of the funds available from the property tax administration fee and the "governing body of the taxing unit" must approve the contribution.

It is my opinion, therefore, that pursuant to MCL 211.44(3); MSA 7.87(3), and subject to its limitations, school districts or other taxing units may contribute funds to an assessing unit which is engaged in a valuation appeal in the Michigan Tax Tribunal or the courts.

FRANK J. KELLEY
Attorney General