

OFFICIAL OPINION NO. 76-88, Can the Oahe Subdistrict hire a lobbyist?

September 20, 1976

Mr. William Piper, Director
Oahe Conservancy Subdistrict Board
Beadle and Clark Counties
Rural Route
Carpenter, South Dakota 57322

OFFICIAL OPINION NO. 76-88

Can the Oahe Subdistrict hire a lobbyist?

Dear Mr. Piper:

You have requested an opinion from this office in regard to the legality of the Oahe Conservancy Board hiring a lobbyist with tax dollars to lobby the United States Congress in regard to the Oahe Project.

SDCL 46-18-19 provides:

The subdistrict board of directors shall have the power to equip, maintain and operate an office as the principal place of business for the subdistrict within such subdistrict and to establish other offices as required and appoint and fix the compensation of such employees as the subdistrict board of directors shall deem necessary to conduct the business and affairs of the subdistrict.

In the case of *In re Oahe Conservancy Subdistrict*, 185 N.W. 2d 682 (1971), the South Dakota Supreme Court held in part that the Oahe Conservancy Subdistrict does validly hold taxing powers delegated to them by the South Dakota Legislature. Within the scope of SDCL 46-18-19, cited above, the Legislature has also granted broad authority to the subdistrict to determine the nature of its employees' work and what "is necessary to conduct the business and affairs of the subdistrict."

In view of the above principles, I believe the subdistrict can make the decision that the

business of the subdistrict requires an advocate-lobbyist and to provide reasonable compensation to such lobbyist for his work on behalf of the subdistrict. Such expenditure would, of course, have to be for a "public purpose" since the law of South Dakota mandates that taxes are to be levied and collected for public purposes *only*, *In re Opinion of the Judges*, 59 S.D. 469, 240 N.W. 600 (1932). In determining whether or not a public purpose is involved in public expenditures, any *reasonable* doubt must be resolved in favor of the statute. *Torigan v. Saunders*, 77 S.D. 616, 97 N.W. 2d 586 (1959).

In my opinion, there is no reasonable doubt in the facts here submitted that the payment of lobbyist expenses by the subdistrict is a "public purpose" and is within the broad discretion and authority granted to the subdistrict by SDCL 46-18-19, cited above.

Respectfully submitted,

WILLIAM J. JANKLOW
ATTORNEY GENERAL

WJJ: DOC: mhb