

OFFICE OF THE ATTORNEY GENERAL 61

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CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

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LEE L. HALE
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5130

Honorable Larry Dixon
Member, House of Representatives
District No. 81
P. O. Box 3052
Montgomery, Alabama 36109

Education - Contracts - Funds

Boards of Education may purchase buses through lease-purchase agreement.

Dear Representative Dixon:

We are in receipt of your letter requesting an opinion on the following questions:

"(1) May a board of education enter a lease-purchase contract for school buses under a lease-purchase plan as described above?"

"(2) Will a transaction as described above or a similar transaction of the same form in any way conflict with the provisions of Article 7, of Chapter 13 of Title 16 of the Code of Alabama 1975 (Sec. 16-13-140 thru 16-13-147, Code of Alabama 1975)?"

Hon. Larry Dixon
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This office has ruled on several occasions that lease-purchase agreements may be made for the purchase of necessary equipment providing several items are included in the agreement. See opinion to Tom J. Ventress, Director of Finance, dated December 1, 1977; opinion to Ralph P. Eagerton, Jr., dated June 27, 1979; and opinion to John Pappanastos issued in November 1979.

Items which must be included are:

(1) No state debt be incurred in violation of Section 213, Constitution of Alabama, as amended, and the obligations for payment under the contract must not extend beyond one year. No debt must be created which will violate the provisions of Section 16-13-140, Code of Alabama 1975, by the Board approving a budget for operations of the system for any fiscal year which shows expenditures in excess of income. However, there may be an automatic renewal of the obligation annually in the event that funds are available to make payments out of current year funds.

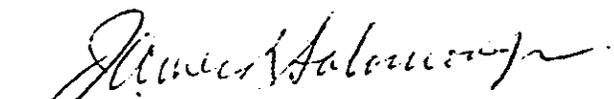
(2) That the agreement does not contain an acceleration clause or penalty clause in the event of non-payment.

(3) That the buses be purchased in accordance with the provisions of the Alabama Competitive Bid Law.

If you have any additional questions, please contact me.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General
By-


JAMES R. SOLOMON, JR.
Assistant Attorney General

JRSjr:dss