

OFFICE OF THE ATTORNEY GENERAL



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Honorable Joseph F. Busta, Jr.
President
Alabama Institute for Deaf
and Blind
P. O. Box 698
Talladega, AL 35160

Colleges and Universities -
Funds - Loans

Section 21-1-19, Code, applies
to temporary loans described
therein.

Dear Mr. Busta:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

Does Section 21-1-19, Code of Alabama
1975, as last amended, prohibit, inhibit
or limit the authority of the board of
trustees of the Alabama Institute for Deaf
and Blind from borrowing funds for capital
improvements under the authority of
Section 16-3-28, Code of Alabama 1975, as
last amended, for capital improvement,
such funds to be repaid over a period
exceeding one year?

FACTS AND ANALYSIS

The board of trustees of the Alabama Institute for Deaf and Blind is presently considering capital improvements for the enhancement of the educational opportunities of students at AIDB. The Institute exists pursuant to Sections 21-1-1, et seq., Code of Alabama 1975, as last amended, as a body corporate. Section 21-1-19 provides:

"The Alabama Institute for Deaf and Blind shall have the power, when authorized by the board of trustees or the executive committee thereof, to borrow money for the purpose of paying salaries of employees, for the purpose of paying other expenses of operating said institute and for the purpose of paying obligations already incurred in the operation of said institute and to pay interest on any sums so borrowed at a rate not exceeding the legal rate of interest. Any such loans may be evidenced by notes executed by said corporation and signed on behalf of said corporation by its president and by the chairman of the executive committee of the board of trustees. All loans made as authorized in this section shall be payable within twelve months from the date when such loans are made and shall be repaid from funds appropriated by the state of Alabama for the use of said Alabama Institute for Deaf and Blind. The aggregate amount of loans negotiated as authorized in this section shall not at any time exceed fifteen percent of the monies which said board of trustees or the executive committee thereof shall anticipate is to be received by said Alabama Institute for Deaf and Blind from the state of Alabama during the next twelve months." (Emphasis supplied.)

Section 16-3-28, Code of Alabama 1975, provides in pertinent part as follows:

"(a) The state board of education, acting for the respective educational institutions under its supervision, and each

public corporation that conducts one or more state educational institutions under its supervision, acting through its board of trustees or other governing body, are hereby separately authorized to exercise and perform any or all of the following powers:

"(1) To borrow money from the United States of America or any department or agency thereof, or from any person, firm, corporation or other lending agency for the purchase, construction and enlargement or alteration of any buildings or other improvements, including dormitories, dining halls, classrooms, laboratories, libraries, stadiums, administration buildings and any other buildings and appurtenances thereto suitable for use by the institution with respect to which the borrowing is made, the acquisition of furniture and equipment for any thereof, the purchase of land, the beautification of grounds and the construction of swimming pools, tennis courts, athletic fields and other facilities for physical education, all for use by such institution . . ." (Emphasis supplied.)

It is clear that the limitations on the temporary loans authorized under § 21-1-19, Code of Alabama 1975, as last amended, relate solely to those loans and have no bearing upon the authority of the board of trustees to borrow under Section 16-3-28 which authorizes the issuance of bonds to secure the borrowing of monies as indicated in the quoted portion of the section for the purpose of carrying out capital improvements by public corporations such as AIDB. Section 21-1-19, Code of Alabama 1975, applies to the temporary loans described therein and is not a general bar to the issuance of bonds for capital improvements authorized by Section 16-3-28, Code, supra.

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CONCLUSION

Section 21-1-19 does not prohibit, inhibit, or limit the authority of the board of trustees of the Alabama Institute for Deaf and Blind regarding borrowing funds for capital improvements pursuant to Section 16-3-28, Code of Alabama 1975, as last amended.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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