

SCHOOL DISTRICTS:)
SCHOOL MONEYS:)
DEPOSITORIES:)

Board of education of school district required to select a depository in the same manner as county courts, and treasurer of school district is liable for loss of funds not deposited in such depository.

7/19
July 19, 1934.



Honorable Jos. L. Gutting
Prosecuting Attorney
Clark County
Kahoka, Missouri

Dear Mr. Gutting:

We acknowledge receipt of your letter dated July 9th, 1934, as follows:

"The Kahoka Public School advertised according to law for bids from banks and banking institutions for a depository of school funds and received no bids. Would you kindly advise if it would be all right for them to select a depository without advertising further due to the fact;

1. They leave their money in the hands of the County Treasurer with exception of enough each month to pay current debts and at the end of each month the County Treasurer writes the school treasurer a check for the approximate amount that the school needs for that month.
2. At no time does the school board and school treasurer have on deposit in any bank more than the banking law guarantee.
3. There is only one bank in this town and as the school deposits are so small the bank will not pay any interest, it appearing that no bank wants the deposits. Therefore we cannot comply with section 12189 R. S. Mo. 1929 in receiving at least one and one-half per centum interest.

July 19, 1934.

"The school treasurer wishes to act according to law on this matter and due to the above we do not see how he can so act as the banks do not want the deposits (even if it were all deposited there. Would section 12132b Laws 1933 page 339 apply and let the school board just select the depository without further advertising of bids?

"Thanking you for your help in this matter, for I imagine the matter might come up as to county monies, I am, "

We are enclosing you herewith copy of an opinion dated July 18, 1934, addressed to Mr. E. A. Allen, Raymore, Missouri, which we think will answer your question.

There does not seem to be any other course to take, except that pointed out by the statutes. Leaving the money in the hands of the county treasurer until the school district treasurer is in need of same is, of course, a protection to the school district treasurer but he would still be liable for whatever sums would come into his hands and not deposited in a legally selected and qualified depository. Neither do we think that the fact that the amount of school funds on deposit in the bank did not equal the National Banking Law guarantee would affect the situation one way or the other. If the depository cannot be selected by virtue of any of the sections of the statutes referred to in the enclosed opinion, then the school district treasurer would hold the school funds subject to whatever losses might follow.

We do not believe that Section 12132b, Laws of 1933, page 339, would be applicable at this time to your situation.

Yours very truly,

GILBERT LAMB
Assistant Attorney-General.

APPROVED:

ROY MCKITTRICK
Attorney-General.

GL:EG