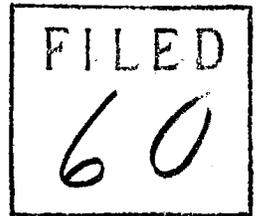


SCHOOLS: School districts cannot issue bonds to buy school busses.

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Mr. John  
January 16, 1946



Honorable Emory C. Medlin  
Prosecuting Attorney  
Barry County  
Cassville, Missouri

Dear Sir:

This office has received your request for an opinion, which reads as follows:

"I would appreciate an opinion of your office whether or not a small town school district was permitted under the law to vote and issue bonds in order to purchase school busses."

The applicable Constitution provision permitting a school district to incur indebtedness is Section 26 (b), Art. 6, of the Constitution of 1945. This section reads as follows:

"Any county, city incorporated town or village, school district or other political corporation or subdivision of the state, by vote of two-thirds of the qualified electors thereof voting thereon may become indebted in an amount not to exceed five per centum of the value of taxable tangible property therein as shown by the last completed assessment for state and county purposes."

The statutory authorization for the Board of Directors for any school district to borrow money and issue bonds for payment thereof is Section 10328, Art. 2, Chap. 72, R.S. Mo., 1939, which in part, reads as follows:

"For the purpose of purchasing school-house sites, erecting schoolhouses, library buildings and furnishing the same, and building additions to or repairing old buildings, the board of directors

shall be authorized to borrow money, and issue bonds for the payment thereof, in the manner herein provided. \* \* \*

The above quoted section is clear in specifically naming the purposes for which money can be borrowed by the Board, and for payment thereof, bonds may be issued.

In *Beauchamp vs. Consolidated School District No. 4 of Livingston County* 247 S.W. 104, 297 No. 64, money was borrowed and bonds were issued for the purpose of remodeling a school house. The appellant claimed that the statute did not include as a purpose, "remodeling". In deciding the question, the following was said at l. c. 71:

"\* \* \*The statute does authorize bonds 'for the purpose of . . . 'erecting schoolhouses . . . and furnishing the same, and building additions to and repairing old buildings.' According to the dictionaries the word 'remodel' has, as the only one of its legitimate meanings which could be applicable here, the meaning 'to re-construct.' In fact, there is nothing included in the word in the sense in which it can be applied to existing buildings in a situation like that in this case which is not within the statutory language 'erecting schoolhouses . . . and building additions to and repairing old buildings.' Appellant's construction, like a similar one in an almost identical case (*Cotter v. Joint School District*, 164 Wis. l.c. 15), is, as the Supreme Court of Wisconsin said, 'too narrow. The statute was intended to enable school districts that did not have adequate schoolhouses to obtain them by purchase or erection, and it should receive a liberal construction to effectuate that purpose. The remodeling of a building is more than repairing it or making minor changes therein. The ordinary significance of the term imports a change in the remodeled building practically equivalent to a new one . . . The inclusion of an old structure into a practically new one does not take the process out of the meaning of the term 'erection,' used in a broad sense.' The purpose named

within the order was within the statute and was sufficiently conveyed to the voters by the same language used in the notice."

To issue bonds for the purpose of buying school busses is far removed from the purposes set forth in Section 10328, supra, and though the statute should receive a liberal construction, we think that the purpose of buying school busses can in no wise be brought within the ambit of the statute.

Attention is directed to Section 10326, R. S. Mo., 1939, which provides as follows:

"Whenever the board of directors of any school district or board of education of a consolidated district shall deem it advisable, or when they shall be requested by a petition of ten taxpayers of such district, to provide for the free transportation to and from school, at the expense of the district, of pupils living more than one-half mile from the schoolhouse, for the whole or for part of the school year, said board of directors or board of education shall submit to the qualified voters of such school district who are taxpayers in such district, at an annual meeting or a special meeting, called and held for that purpose, the question of providing such transportation for the pupils of such school district; Provided that when a special meeting is called for this purpose, a due notice of such meeting shall be given as provided for in Section 10361. If two-thirds of the voters, who are taxpayers, voting at such election, shall vote in favor of such transportation of pupils of said school district, the board of directors or board of education shall arrange for and provide such transportation. The board of directors or board of education shall have authority and are empowered to make all needful rules and regulations for the free transportation of pupils herein provided for, and are authorized to and shall require from every person, employed for

that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. Said board of directors or board of education shall pay by warrant the expenses of such transportation out of the incidental fund of the district: Provided, that this section shall include pupils attending private schools of elementary and high school grade except such schools as are operated for profit." (Underscoring ours)

The statute clearly provides that when transportation for school children is authorized, it shall be arranged for by the Board of Directors and paid for out of the incidental fund of the school district. School busses used as a means of transporting children to school would have to be purchased with the money in the incidental fund.

The incidental fund is provided for in Section 10366, Laws of Missouri, 1943, page 893, which repealed and re-enacted Section 10366, R. S. Mo., 1939. This section, in part, provides as follows:

"All school moneys received by a school district shall be disbursed only for the purposes for which they were levied, collected or received. There is hereby created the following funds for the accounting of all school moneys: Teachers' Fund, Incidental Fund, Free Textbook Fund, Building Fund, Sinking Fund, and Interest Fund. School district moneys shall be disbursed only through warrants drawn by order of the board of education. Each warrant shall show the legal identification of the district by name or by number as provided by law; shall specify the amount to be paid; to whom payment is made; from what fund; for what purpose; the date of the board order, and the number of the warrant. Each warrant must be signed by the President and the Secretary or Clerk. No warrant shall be drawn for the payment of any school district indebtedness unless there is sufficient money in the treasury and in the proper fund for the payment of said indebtedness."

\* \* \* \* \*

"\* \* \* Money apportioned by the state for transportation and money derived from taxation for incidental expenses shall be credited to Incidental Fund. \* \* \*

CONCLUSION

Therefore, it is the opinion of this department that the purposes for which bonds may be issued by the Board of Directors of any school district, as set forth in Section 10328, R. S. Mo., 1939, do not include the purchase of school busses.

School busses are a means of transportation for school children to and from school, and must be authorized in the manner prescribed in Section 10326, R. S. Mo., 1939, and paid for out of the incidental fund of the school district, which is provided for in Section 10366, Laws of Missouri, 1943.

Respectfully submitted,

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APPROVED:

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RFT:dc