

SCHOOLS: Board of directors of common school district
empowered to act until completion of organi-
SCHOOL DISTRICTS: zation of reorganized district.

July 22, 1949

8/5/49

Honorable Hugh Phillips
Prosecuting Attorney
Camden County
Camdenton, Missouri



Dear Sir:

Reference is made to your request for an official
opinion of this office, reading as follows:

"I am seeking an opinion from your office
on the following proposition.

"Laws of Missouri, 1947, Vol. II, Pages
370-377 relates to County Reorganization
Boards, State School Reorganization Plan.
Approval of Camden County Plan was had by
State Department of Education and also
approval for all except one district on
July 12, 1949. However this rejected
district is not involved in my questions.

"Section 11 of said law provides: 'The
terms of office of all school directors
and officers of the various school districts
comprising the territory incorporated in
such enlarged school districts SHALL CEASE
UPON THE ADOPTION OF THE PLAN OF REORGANI-
ZATION AND THE ORGANIZATION OF THE BOARD
OF DIRECTORS, and such officers shall
deliver to the board of directors of the
enlarged school district all property,
records, books and papers belonging to
such component districts.....' (Emphasis
mine).

"As now planned there will be election in
each of the new reorganized districts in
August, 1949, for selection of new six
person board.

"County Treasurer is now faced with fol-
lowing proposition: She has been presented

with Warrant on common school district taken over in enlarged reorganized district, which warrant is dated July 15, 1949, and is valid on its face in all respects.

"QUESTION: Do the terms of office and authority thereunder of school boards comprising the new reorganized district cease upon Election of Adoption and Approval of Reorganization (July 12, 1949) or must both election and subsequent election of new directors and their organization with choosing of new treasurer be accomplished before term of office shall cease?"

The act referred to in your letter of inquiry, found Laws of Missouri, 1947, Volume II, pages 370 to 377 inclusive, provides a comprehensive scheme for the reorganization of the various school districts in the several counties of the state. Generally speaking, it may be said that the matter involves the submission of the proposed plan of reorganization to the electorate, and upon a favorable vote being had upon the proposed plan, the subsequent organization of the reorganized districts after an election of directors and selection of officers.

Section 11 of the act, insofar as material to the determination of your question, reads as follows:

"The terms of office of all school directors and officers of the various school districts comprising the territory incorporated in such enlarged school districts shall cease upon the adoption of the plan of reorganization and the organization of the board of directors, and such officers shall deliver to the board of directors of the enlarged school district all property, records, books and papers belonging to such component districts. All funds in the hands of the county or township treasurer to the credit of the various districts composing such enlarged district, shall be immediately transferred to the credit of the treasurer of such enlarged district. * * * *"

(Emphasis ours.)

We note that the election approving the plan of reorganization for Camden County was held on July 12, 1949, the proposed plan receiving a majority vote. We further note that the election for the selection of the directors for the new enlarged district has not as yet been held. This election, under the provisions of Section 10 of the act must be held within 30 days after the first election approving the plan of reorganization. It is further noted that the county treasurer, as custodian of the school funds of the common school districts, has been presented for payment a warrant dated July 15, 1949, such date being subsequent to the date of the first election approving the plan of reorganization but prior to the date of election of the directors of the new enlarged district. The answer to your question then depends upon a construction to be accorded the quoted provision of Section 11 of the act.

You will note that the terms of office of the school directors and officers of the various school districts are under the statute terminated upon the adoption of the plan of reorganization and the organization of the board of directors. The "board of directors" referred to in the statute can of necessity only refer to the directors of the enlarged district. To construe the provision otherwise would result in an absurdity. It therefore appears that until such time as both of these conditions are met, the various school directors of the common school districts taken into the enlarged new district retain their status as public officials and are empowered to continue to deal with the fiscal affairs and property of their respective common school districts as formerly.

Further, you will note that it is not until such time as the board of directors of the newly enlarged district shall have selected a treasurer is there to be any transfer of funds to such district. This appears from the last sentence of the section quoted supra. This, of course, could not be done until the newly elected directors shall have qualified and organized.

CONCLUSION

In the premises, we are of the opinion that the board of directors of a common school district is empowered to continue the control of the fiscal affairs and property of such common school district until such time as said common school district

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may be taken into an enlarged district under the plan of reorganization provided by Laws of Missouri, 1947, Volume II, pages 370 to 377, inclusive, and that such power continues until the election and qualification of the new board of directors of such enlarged district.

We are further of the opinion that a warrant issued by the board of directors of a common school district, subsequent to the adoption of the plan of reorganization but prior to the election and qualification of the board of directors of the new enlarged district, should be accepted and paid by the county or township treasurer as the case may be.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:VLM