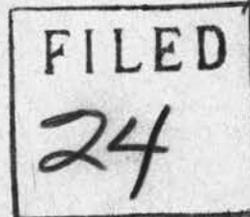


SCHOOLS: Warrant issued by school district to pay indebtedness exceeding revenue for particular year is void; warrant cannot be issued in subsequent year to pay previous warrant issued.

December 18, 1950



Honorable William Lee Dodd
Prosecuting Attorney
Ripley County
Doniphan, Missouri

Dear Sir:

Your letter at hand requesting an opinion of this department, which reads as follows:

"A school district (common) issued a warrant for a school district debt, but there was no funds with which to pay the warrant in the county school fund. In another year the school board issued a warrant to pay said void warrant. Is this later warrant valid and payable by the county treasurer? Does the school board have authority to issue said warrant?"

You further informed us that the warrant in question was issued after warrants to the full extent of the anticipated revenue of the school district for the particular year involved had already been issued.

Section 26, Article VI of the Constitution of Missouri, 1945, in part, provides:

"No county, city, incorporated town or village, school district or other political corporation or subdivision of the state shall become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balances from previous years, except as otherwise provided in this Constitution."

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The above section is substantially the same as Section 12, Article X of the Constitution of 1875, which, in part, provided that no school district could become indebted in any manner or for any purpose to an amount exceeding in any year the income or revenue provided for such year, without the consent of two thirds of the voters. Section 26, supra, also provides for a school district becoming further indebted by a two-thirds vote.

Section 10366, Laws of Missouri, 1943, page 893, relating to the disbursement of school moneys, in part, provides:

"All school moneys received by a school district shall be disbursed only for the purposes for which they were levied, collected or received. * * * 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. * * * No county, township, or school district treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the first day of July and ending on the thirtieth day of June following,
* * *"

The above section, which pertains to all classes of schools, provides that the disbursement of school moneys must be made by warrant duly drawn by the Board of Education, and that no warrant shall be drawn for the payment of any indebtedness unless there is sufficient money in the treasury to cover said payment. The latter part of said section further provides that no warrant shall be honored against a school district that is in excess of the income and revenue of the school district for its fiscal year.

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In your request you inquire if the void warrant, to which we have previously referred, can now be paid by the issuance of another warrant out of revenue or income derived in a subsequent year.

In the case of Pullum v. Consolidated School Dist. No. 5, 211 S.W. (2d) 30, the Supreme Court, in construing Section 12, Article X of the 1875 Constitution, in its application to a school district incurring indebtedness, said at l.c. 34:

" * * * The quoted language of the Constitution of 1875 has been uniformly construed as permitting the anticipation of the current revenues to the extent of the year's income in which the debt is contracted or created and as prohibiting the anticipation of the revenues of any future year. * * *

"In cases in which the constitutional issue has been raised, it is said the situation at the time a debt is contracted or created determines whether or not a debt is void under Section 12, Article X, Constitution of 1875. * * *"

Under the above case it would appear that, in incurring indebtedness and in issuing warrants in payment thereof, a school district would be permitted to anticipate the current revenues of the particular year in which the indebtedness was incurred, but would not be permitted to anticipate the revenues of future years in incurring any particular indebtedness.

In the case of Barnard & Co. v. Knox County, 105 Mo. 382, suit was instituted upon a protested warrant issued by the County Court of Knox County in 1885 to pay for certain books and stationery. The defense was that the debt for which the warrant was issued was in excess of the revenue for the year 1885. In ruling on the question the court, at l.c. 390, said:

"It is, of course, a hardship to the plaintiff to declare this warrant worthless, but we cannot dispose of the question on any such surface view of the matter. The constitution seeks to protect the citizen and taxpayer, and their rights are not to be overlooked. It is the duty of persons dealing with counties and county officials, as well as of county officials

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themselves, to take notice of the limit prescribed by the constitution. 1 Dill. Munic. Corp. (4 Ed.) sec. 134a. Soliciting agents, contractors and others who deal with county officials must see to it that the limit of county indebtedness is not exceeded, and, if they fail to do this, they must suffer the consequences. * * *

In the case of Kane & Co. v. The School Dist. of Calhoun, 48 Mo. App. 408, suit was instituted to recover on a warrant issued to pay for some school furniture. It was directed that payment of the warrant would be made about two years after the date of its being issued. In ruling that this was invalid the court, at l.c. 413, 414, said:

"* * * More than this, the so-called treasurer's warrant purports to bind the school district two years in the future, in that the treasurer is directed to pay the same about two years after its date. The evidence conclusively shows that there was no money on hand then to pay the same nor any provided for in that fiscal year. Hence, this order was an effort to pledge the future credit of the defendant, in clear violation of section 12, article 10, constitution of Missouri, which reads: 'No * * * school district * * * shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose.' * * * "

In other words, under the above case it would appear the court has held that the income and revenue of a subsequent year or years could not be used to pay a warrant issued in a previous year which could not then be paid due to the fact that no money was available. That is to say, the previous warrant had been issued to pay indebtedness in excess of the income and revenue of the fiscal year in which said indebtedness was contracted.

CONCLUSION

It is therefore the opinion of this department that a

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warrant issued by a school district to pay indebtedness in excess of the income or revenue for the particular year in which the indebtedness was contracted would be void, and that said warrant could not be paid out of revenue for a subsequent year by the issuance of another warrant.

Respectfully submitted,

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APPROVED:



J. E. TAYLOR
Attorney General

RFT:ml