

COUNTY COURTS: (1) The valuation of government-owned lands for pur-
SCHOOL DISTRICTS: poses of apportioning moneys to school districts is to
ASSESSMENTS: be made by the county court as is provided in the first
sentence of Section 12.100 Cum. Supp. 1955. These
lands are to be evaluated by the county court as if they were privately
owned. (2) The amount of land to be assessed depends upon the particular
district. As to any district entitled to apportionment of these moneys,
the amount of land to be assessed shall be the amount that the district
could have assessed but for the acquisitions of the land by the govern-
ment. (3) Any district which would have had land to assess but for the
acquisition of these lands by the government is entitled to apportion-
ment. This includes any reorganized district which is now composed of
any district or any part of any district that could have assessed the
land but for the acquisition thereof.

March 1, 1956

Honorable Roy W. McGhee, Jr.
Assistant Prosecuting Attorney
Reynolds County
Centerville, Missouri



Dear Mr. McGhee:

This will acknowledge your request of recent date, in which
you ask the following questions:

"I would appreciate an opinion from your
office on the interpretation and imple-
mentation of the following statute, which
seems to create quite an administrative
and financial problem here.

"The problem is concerned with the dis-
tribution and allocation of so-called
'flood control monies'. The statute in
question is Section 12.100, RSMo 1955, and
the problem arises over the last sentence
in that section, to-wit:

"'....The county court shall allow to
the school districts and for roads an
amount based upon their respective levies,
equal to that which would ordinarily be
allowed to them out of taxes from prop-
erty owned by the United States if the
property were privately owned before
using any of such moneys for defraying
other expenses of the county.'

"My questions are as follows:

"1. How and by whom is the valuation of said
lands determined?

"2. What amount of land is to be so assessed
and how is this amount to be determined?

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"3. What school districts are to receive the benefits, e.g., the districts which formerly included such lands, or, those districts as reorganized, or the districts now adjacent to the lands in question?

"The old assessments are practically impossible to use presently because of the irregularity of the boundaries of land taken by the federal government for this purpose (Clearwater Dam). The county court is fearful of exercising their responsibility under the above section because of the vagueness inherent in the above-quoted portion. I might add that the legislative intent is not quite clear to the writer.

"The problem is further complicated by the fact that, assuming only the lands actually leased each year by the Corps of Engineers are to be considered, the leases involved fluctuate each year, not only in value but in the amount of land leased.

"This problem is particularly pressing at the moment because of the necessity of preparing a budget for the current year, in which the proper distribution of these monies will play an important part. For this reason I would most deeply appreciate an opinion from your office on the matter at your earliest convenience."

The allocation and distribution of moneys under Section 12.100 Cum. Supp. 1955, pertain only to moneys derived from the United States under Section 12.070 RSMo 1949, and Section 12.080, Cum. Supp. 1955.

Section 12.070, RSMo 1949, provides:

"Sums received from United States shall be expended, how.--All sums of money heretofore received or that may hereafter be received from the United States under an act of congress, approved May 23, 1908, being an act providing for the payment to the states of twenty-five per cent of all money received from the national forest reserves in the states to be expended as the legislature may prescribe for the benefit of the public schools and public roads of the county or counties in

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which the forest reserve is situated, shall be expended as follows: Seventy-five per cent for the public schools and twenty-five per cent for roads in the counties in which national forests are situated. Such funds shall be used to aid in maintaining the schools and roads of those school districts that lie or may be situated partly or wholly within or adjacent to the national forest in such county. The distribution to each county from the proceeds received on account of a national forest within its boundaries shall be in proportion that the area of such national forest in such county bears to the total area of such forest in the state, as of June thirtieth of the fiscal year for which the money is or was received."

Section 12.080, Cum. Supp. 1955, reads as follows:

"County court shall direct expenditures.-- All sums of money heretofore received or that may hereafter be received from the United States, or any department thereof under an act of congress approved August 18, 1941, being an act providing for the payment to the several states of seventy-five per cent of all moneys received for leases of land situated in the various states to which the United States owns fee simple title under the Flood Control Act of May 15, 1928, as amended and supplemented, to be expended as the general assembly may prescribe for the benefit of the public schools and public roads of the county or counties in which such government land is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements, or as provided by any acts of congress authorizing the distribution of income or revenue from such lands owned by the United States of America or any of its departments, bureaus or commissions or any agency of the United States of America, to states or counties or as provided by any amendments to said acts, shall be expended as the county court of the county entitled to receive such funds may direct in accordance with the provisions and regulations as have been or may be in the future provided by the acts of congress providing for such distribution to states and counties."

Section 12.100, Cum. Supp. 1955, reads in part as follows:

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"* * * The county court shall allow to the school districts and for roads an amount based upon their respective levies, equal to that which would ordinarily be allowed to them out of taxes from property owned by the United States if the property were privately owned before using any of such moneys for defraying other expenses of the county."

It is the opinion of this writer that the last sentence of Section 12.100, which is quoted above, pertains only to moneys received under Section 12.080, that is, money derived from leases, since Section 12.070 declares that 75% of the money received by the state under that Section (12.070) shall go for the benefit of schools and the other 25% shall go for the benefit of public roads. Thus, Section 12.070 provides where all of the moneys received under that section shall go. Section 12.080 has been amended and provides for moneys to go "for defraying any of the expenses of county government" as well as for the benefit of public schools and public roads of the county. Section 12.100, as amended, declares that before any of such moneys are used at the discretion of the county court for any of the purposes set out in Section 12.080, Cum. Supp. 1955, a certain amount shall go to certain school districts and for roads, to wit, an amount based upon the respective levies equal to that which would ordinarily be allowed to them out of taxes from property owned by the United States as if the property were privately owned.

The intention of congress under the Flood Control Act, providing for payment of 75% of the lease moneys to the state, was to return to the state some of the revenue of which it had deprived that state by acquiring the lands. The General Assembly of Missouri, then, in accordance with the intention of congress, amended Section 12.100, RSMo 1949, so that the school districts adversely affected by this deprivation of tax sources will be entitled to revenue in an amount which will equal the tax money, except for any variation in the levy, which they would be receiving but for the acquisition of these lands by the government.

The first sentence of Section 12.100, Cum. Supp. 1955, reads as follows:

"It shall be the duty of the county court of each county receiving any such moneys to use such funds to aid in maintaining the schools and roads and for defraying any of the expenses of the county in accordance with the provisions set forth in sections 12.070 and 12.080. * * *"

Thus it follows that the county court has the duty of making the valuation and distribution of moneys. It may request the assistance of the assessors but is given no power by the statute to compel such assistance.

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The amount of land to be assessed will depend upon the particular district. If the district is one whose boundaries have not been changed since the acquisition of the land by the government, then all the government-owned land within that district shall be assessed. "All government-owned land" in this instance would include inundated land if there be any.

Any district unaffected by the government's purchase of lands is not entitled by right to share in the apportionment under Section 12.100 Cum. Supp. 1955. That is to say, any district unaffected at the time of the purchase or also any reorganized district which includes any district or districts or any part thereof which were unaffected at the time of the purchase, is not entitled to share in the apportionment. On the other hand, any district reorganized since the acquisition of the lands by the government shall share in the apportionment to the extent that it would have received tax moneys but for the acquisition. For example, suppose that X district, a reorganized district, is composed of what was A, B and C districts and that they (A, B and C districts) were districts existing at the time of the acquisition of the lands by the government. Assuming further that, of the government-purchased lands, 100 acres is in what was A district, 200 acres in B district, and 300 acres in C district. Then X district will assess 600 acres and apply its particular levy to that assessment in order to determine what amount it will receive in the apportionment. Taking the same hypothetical, except let us assume that a part of what was originally C district is now a part of Y district, a reorganized district, and the remaining part of C district is in X district, the reorganized district, then the amount of lands that could be assessed by X and Y districts as to C district should be rateably apportioned. In other words, if one-half of what was originally C district is now in the reorganized district, X, and the other one-half of C district is in the reorganized district, Y, then both X and Y districts could assess 150 acres as to C district.

In summarizing the above conclusions, any district, whether it be one existing substantially as it did at the time of the acquisition of the lands by the government, or a reorganized one, shall assess the amount of land that would have been available for assessment but for the acquisition. If any of the said districts are not adversely affected in that none of its lands was purchased or none of the lands of the original districts making up the reorganized district was purchased, then these districts are not entitled by right to share in the apportionment. Any district entitled to share in the apportionment shall receive an amount based upon its particular levy on the assessment as above explained.

CONCLUSION

It is therefore the opinion of this office that:

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(1) The valuation of government-owned lands for purposes of apportioning moneys to school districts is to be made by the county court as is provided in the first sentence of Section 12,100 Cum. Supp. 1955. These lands are to be evaluated by the county court as if they were privately owned.

(2) The amount of land to be assessed depends upon the particular district. As to any district entitled by right to apportionment of these moneys, the amount of land to be assessed shall be the amount that the district could have assessed but for the acquisitions of the land by the government.

(3) Any district which would have had land to assess but for the acquisition of these lands by the government is entitled to apportionment. This includes any reorganized district which is now composed of any district or any part of any district that could have assessed the land but for the acquisition thereof.

Yours very truly,

JOHN M. DALTON
Attorney General

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