

IN RE: APPLICATION TO PAYMENT OF SCHOOL DISTRICT WARRANTS OF
RAILROAD TAXES DELINQUENT FOR THE YEAR 1932 AND PAID
JUNE 28, 1933.

9233-9312 P.S. No. 1929

8-23

August 15, 1933.

FILED
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Honorable Melvin Englehart
Prosecuting Attorney
Madison County
Fredericktown, Mo.

Dear Sir:

Your letter of July 20 reads as follows:

"The county treasurer and the county clerk of this county have made inquiries of this office as to the disposition of delinquent railroad taxes collected on June 28, 1933, for the year 1932. Shall these taxes be (by) applied to the payment of warrants issued by school districts for legitimate school expenses for the school year of 1932-33? Section 9270n R.S. 1929 of Missouri provides that school boards in making their estimates on or before July 1, of each year should estimate the amount of current taxes that will be received from the railroads for the coming school year. This would lead you to believe that railroad taxes should be expended during the same school year that they are collected.

"The state department of education issued a bulletin on January 6, 1933 saying that tax collections of railroads made on or before January 1, 1933 should be spent during the school year of 1932-33. I have been unable to give an accurate answer to this question and would appreciate an immediate reply from your office."

Section 9233 R. S. Mo. 1929 provides as follows:

"All moneys arising from taxation shall be paid out only for the purposes for which they were levied and collected; but the income from state, county and township funds shall be applied only to the payment of teachers' warrants, issued by order of the board to legally qualified teachers for services rendered according to law. No county or township 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; nor shall any portion of the funds mentioned in this section be applied in payment of any teacher's warrant issued prior to the distribution of such funds in accordance with section 9357, and no school warrant shall bear interest."

The school year begins the 1st day of July and ends on the 30th day of June.

Section 9312 H. S. No. 1929 provides as follows:

"The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from the taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the 'teachers' fund;' the money derived from taxation for incidental expenses shall be credited to the 'incidental fund;' all money derived from taxation for building purposes, from the sale of school site, school house or school furniture, from insurance, from sale of bonds, from sinking fund and interest, shall be placed to the credit of the 'building fund;' and all moneys not herein specified that now belong to any school district, or that may hereafter be received by such school district, shall

be placed to the credit of the 'teachers' fund' of such school district. No treasurer shall honor any warrant unless it be in the proper form and upon the appropriate fund; and each and every warrant shall be paid from its appropriate fund, and no partial payment shall be made upon any school warrant, nor shall any interest be paid upon any such warrant: Provided, that the board of directors shall have the power to transfer from the incidental to the building fund such sum as may be necessary for the ordinary repairs of school property: Provided further: that in the event of a balance remaining in the building fund after the purpose for which said fund was levied is accomplished, the said board shall have the power to transfer such unexpended balance to the incidental fund: Provided further, that by a majority vote of the school board tuition fees may be used to liquidate indebtedness accrued in the building fund. (R. S. 1919, Sec. 11233.)"

Section 11, Article X of Constitution of Missouri limits the amount of tax the counties in the school districts may impose for school purposes.

Section 13 of Article X of the Constitution provides:

"No county, * * * school district or other political corporation or subdivision of the State 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 consent of two-thirds of the voters thereof voting on such proposition, at an election to be held for that purpose."

In *Book v. Earl*, 37 Mo. 246, it was held the Constitution of 1875 abolished in county and school districts and municipal governments the credit system and established the cash system by limiting the amount of taxes which might be imposed and limiting the expendi-

tures in any given year to the amount of revenue such tax should bring into the treasury for that year. Under these constitutional provisions, the Supreme Court has held that revenue for current expenses, provided for any one fiscal year, of counties and school districts must first be applied to the payment of ordinary current expenses incurred in county and school district.

State ex rel. v. Allison, 155

Mo. 325;

State ex rel. v. Johnson, 163

Mo. 631.

The constitutional provisions above mentioned require the application of taxes levied for the year to be first applied to the ordinary expenses for the year of a school district or a county.

It is evident from the above provisions of the Constitution that the revenue of school districts for the ordinary expenses of each year must be met by the taxes levied for that year regardless of when said taxes are paid and the Supreme Court of Missouri has so held.

In line with the above statement are the provisions of Section 9233 R. S. Mo. 1929, above set out, providing, no county or township 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; nor shall any portion of the funds mentioned in this section be applied in payment of any teacher's warrant issued prior to the distribution of such funds in accordance with Section 9257.

It is the opinion of this department that, subject to the terms of the Statutes herein set forth and referred to herein, the delinquent railroad taxes for the year 1932 collected on June 28, 1933, received by a school district must first be applied to the payment of warrants issued by such district for ordinary school expenses for the school year beginning July 1, 1933 and ending June 30, 1933, and these warrants should be paid in the order of their presentation and registration, and are not payable pro tanto if there is not sufficient funds to pay off all warrants. The above statement is subject to the

Aug. 15, 1933.

provide that if there is a surplus in a school district's revenue, after payment of all regular ordinary current expenses for the year beginning July 1, 1933 and ending June 30, 1933, then the railroad taxes received by the school district should be applied to the payment of warrants of previous years in the order of their registration.

Respectfully submitted,

EDWARD G. GROW
Assistant Attorney General.

APPROVED:

ROY McKITTRICK
Attorney-General

EGG/AJ