

SCHOOLS - Compelling members of school boards to publish annual reports.

9360 RS Nov 1933

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November 3, 1933.

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Mr. George W. Kriegesman,
President, St. Louis County Press Ass'n.,
104 W. Lockwood Avenue,
Webster Groves, Missouri.

Dear Sir:

A request for information under date of September 30, 1933
has been received from you as follows:

"What steps must be taken to compel the members of the
several Boards of Education of St. Louis County to comply
with Sec. 11266 of the Revised School Laws of 1929 in
publishing their annual statements in detail?"

You will note that on Page 258 of same the Attorney-General
rules that the specific amount paid to each teacher must
be published.

As the school tax is always the largest tax paid, we have
a right to have the law lived up to so that the taxpayer
will know what the money is being used for. No one is ob-
jecting to the payment of the school tax, but everyone is
entitled to the full and correct information as to its use.

You will greatly oblige the editors of the nine papers
published in St. Louis County by furnishing the information
called for."

Revised Statutes of Missouri of 1929, section 9360, provides in part
as follows:

"* * * * *that it shall be the duty of each of said boards,
and of the boards of directors in other school districts in
this state having graded schools, to make and publish,
annually, on or before the 15th day of July in each year, in
some newspaper published in such school district, and if there
be no newspaper published therein, then by written statements
posted in five public places in such district, a detailed
statement of all receipts of school moneys, when and from
what source derived, and of all expenditures, and on what
account; also, the present indebtedness of the district and
its nature, and the rate of taxation for all school purposes
for the year; which said statement, so required to be made
and published, shall be duly attested by the president and
secretary of the board, and the secretary shall forward a copy
of said report to the state superintendent of public schools
at Jefferson City. And any board of education or board of

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directors who shall fail, refuse or neglect to order such statement to be made, and any officer of said board who shall fail, refuse or neglect to prepare such statement and publish and forward the same, as required by the foregoing provisions of this section, when ordered by such board, shall be guilty of a misdemeanor and punished by a fine not to exceed one hundred dollars."

One possible way of compelling compliance with the above section would be to report any violation of it to the Prosecuting Attorney of the county because by the above section violations thereof are made misdemeanors. This method would be subject to the objection that it would not necessarily secure the result desired for criminal proceedings would merely punish the offenders and would not of themselves compel compliance with the statute.

The best method for compelling obedience to the above statute would be by an action of mandamus against the members of boards violating such statute and such suit could be instituted by a private citizen and taxpayer.

"There is no ground for cavil concerning the right of the relator to this writ. He is a citizen and a qualified voter of Jefferson City. As such he is interested in the enforcement of the law and as a consequence in the welfare of the community. Possessing this right and interest he is entitled, if officials, from whatever cause, are not performing their duties, to ask the court to require them to do so. We therefore hold that, in a case of this character, mandamus is the appropriate remedy, and that the relator is a proper party as petitioner therefor." (State ex rel Faust v. Thomas, 313 Mo. 160, 165, 232 S. W. 34 (1926). Accord, State ex rel Wear v. Francis, 95 Mo. 44, 6 S. W. 1 (1888); State ex rel Kelleher v. Board of President and Directors of St. Louis Public Schools, 134 Mo. 296, 35 S. W. 417 (1896).

Very truly yours,

EDWARD H. MILLER

APPROVED:

ASSISTANT ATTORNEY GENERAL.

ATTORNEY GENERAL.