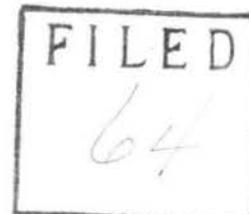


SCHOOLS NEW OR OLD DISTRICTS--Should be left with at least \$50,000 assessed valuation and 20 school pupils **OR** 8 square miles and 20 school pupils.

May 11th, 1933



Hon. J. H. Mosby,  
Prosecuting Attorney,  
Osage County,  
Linn, Missouri.

Dear Sir:-

Answering your letter of April 13th, wherein you ask,

"Can the boundary lines of a School district be changed, transferring a part of the land in one district to another School District, leaving in the one district an area of less than 8 square miles with an assessed valuation of less than \$50,000.00?"

Upon what assessment will the valuation be determined? The assessment upon which taxes are collected for the year 1932, or the assessment of the Assessor for the year 1932, payable in 1933?

(The proposition was voted upon at the annual school meeting held in April 1933.)

Also: Can the School District employ an attorney and pay his fees out of the Incidental Fund of the School district? The purpose of such employment being to defend the rights of the School District."

Answering your first question, it is our opinion that your reference to leaving a district with less than eight square miles and a valuation of less than \$50,000 is the law, which applies to ordinary districts and should be complied with if possible. Sections 9275 and 9277, Revised Statutes of 1929.

In regard to the \$50,000 assessed valuation, it would apply to your community. While you do not mention it, the change, taking off part of your district and adding it to another undoubtedly was under the above Sections or Sections 9351-9358 inclusive. Assuming these facts to be correct, under the liberal construction given district consolidations, it is our opinion that it would probably not in-

Hon. J. H. Mosby

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validate the proceedings by the district referred to not having exactly eight square miles or assessed valuation of \$50,000.

State ex rel. Barnhill v. Thompson, 260 S. W. 84.  
State ex Inf. Thompson v. Scott, 304 Mo. 885, and  
Section 9245.

An assessed valuation applies to the current fiscal year in which the change took place.

Lastly, ordinarily speaking the districts have no authority to employ attorneys out of the revenue of the school as that is for school purposes, but there have been a few cases where the Court permitted the employment of attorneys out of the Incidental Fund where it was plainly to the school interest to do so.

Yours very truly



GEO. B. STROTHER,  
Assistant Attorney General

GBS/mh

APPROVED:

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ROY McKITTRICK  
Attorney General