

SCHOOLS: Employment of teachers and number thereof discretionary with board -- contingent upon funds in possession or amount voted.

5/31

May 24, 1934.



E. F. Weir, M. D.
President of School Board
Meadville, Missouri

Dear Doctor Weir:

This is to acknowledge your letter, as follows:

"We have 33 average daily attendance in High School, only enough for three high school teachers. Can we employ another high school teacher legally and use the school funds to pay his salary? Or the taxpayers money to employ a music teacher. I am anxious to know so that we may be able to complete our teaching staff."

I.

Section 9207 R. S. Mo. 1929, provides in part as follows:

"The board shall have power to make all needful rules and regulations for the organization, grading and government in their school district etc."

Section 9209, Laws of Missouri, 1933, page 387, provides in part as follows:

"The board shall have power, at a regular or special meeting called after the annual school meeting, to contract with

and employ legally qualified teachers for and in the name of the district; * * * *. All transactions of the board under this section must be recorded by and filed with the district clerk."

Thus, the management and control of the school and employment of the teachers therein, is vested in the board.

II.

Section 9213, R. S. Mo. 1929, provides:

"The board of directors or board of education of any school district in this state may provide for the gratuitous education of persons between five and six and over twenty years of age, resident in such school district. Such gratuitous education, however, shall be provided only out of revenues derived by such school district from sources other than those described in section 6, article XI of the Constitution of this state, and only with so much of such revenues as are not required for the establishing and maintaining of free public schools in such school districts for the gratuitous instruction of persons between the ages of six and twenty years: Provided, that nothing in this section shall be construed as affecting the basis of apportionment of the public school fund of this state as now fixed by law."

Section 11, Article X, Constitution of Missouri, provides in part as follows:

"For school purposes in districts composed of cities which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on

the hundred dollars valuation and in other districts forty cents on the hundred dollars valuation: Provided, The aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns, to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are tax-payers voting at an election held to decide the question, vote for said increase. * * * *."

Section 9214, R. S. Mo. 1929, provides:

"The board of directors of each district shall, on or before the fifteenth day of May of each year, forward to the county clerk an estimate of the amount of funds necessary to sustain the schools of their district for the time required by law, or, when a longer term has been ordered by the annual meeting, for the time thus decided upon, together with such other amount for purchasing site, erecting buildings or meeting bonded indebtedness, and interest on same, as may have been legally ordered in such estimate, stating clearly the amount deemed necessary for each fund, and the rate required to raise such amount."

Section 9225, R. S. Mo. 1929, provides:

"Whenever it shall become necessary, in the judgment of the board of directors or board of education of any school district in this state, to increase the annual rate of taxation for school purposes, or when any five resident tax-payers of such district shall petition

such board, in writing, that they desire an increase on the rate of taxation, such board shall determine the rate of taxation necessary to be levied in such district within the maximum rates prescribed by the Constitution for such purposes, and shall submit to the voters of said school district, at an election to be by such board called and held for that purpose, at the usual place of holding elections for members of such board, whether the rate of taxation be increased as proposed by said board, due notice having been given as required by section 9283; and if a majority of the voters who are taxpayers voting at such election on the proposition to increase levy shall vote in favor of such increase, the result of such vote, and the rate of taxation so voted in such district, shall be certified by the clerk or secretary of such board or district to the clerk of the county court of the proper county, who shall, on the receipt thereof, proceed to assess and carry out the amount so returned on the tax books on all the taxable property, real and personal, of such school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants as provided by law."

See also, *Kansas City, Fort Scott and Memphis Railroad Company v. Chapin*, 162 Mo. 409.

It is thus seen that the board of directors of each district shall estimate the funds necessary to sustain the school for the ensuing year but said board is limited to the amount of the estimate by the Constitution and as provided by Section 9225, supra, if it becomes necessary to increase the annual rate of taxation for school purposes, then such must be done by petition and submitted to the voters of the school district.

CONCLUSION.

Hereinabove it was shown that the board of directors have the management and control of the school; also, the employing of teachers; also, the estimating of the amount of funds necessary to sustain the school. It is incumbent upon the school board to provide for such needs (teachers) of the school district, to the end that gratuitous instruction will be provided for the pupils. The number of teachers to be employed is discretionary with the board. However, the board is limited to the number of teachers if the estimate for the paying of such teachers' wages exceeds the amount of the forty-cent levy on the one hundred dollars valuation; in which event, must be voted by the taxpayers.

Therefore, if a school district has enough funds or votes more money with which to employ additional teachers, then, in our opinion, such teacher, or teachers, may be employed and funds expended for their wages.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

JLH:EG