

SCHOOL DISTRICTS: When warrants may be issued on anticipated revenues.

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April 24, 1936.



Hon. Lloyd King,
State Superintendent of Schools,
Jefferson City, Missouri.

Attention: Mr. N. E. Viles, Director
School Building Service.

Dear Sir:

We acknowledge receipt of your request for an official opinion under date of April 10, as follows:

"Section 9357 R. S. Mo. 1929 provides that state aid amounting to \$2,000 shall be paid a school district which erects a new building, when certain conditions are met by the district. This money is due the district when the building is approved by the State Superintendent of Schools.

"The Laclede School District has underway a building for which plans and specifications have been approved. The building will be approved for state aid. May we have your opinion on the following question?

"May a district consider the state aid as anticipated funds as soon as the building is completed and issue warrants thereon to pay the contractor and other obligations against the district for the building?"

Section 9357, R. S. of Mo. 1929, provides when state aid is granted a district for a high school, as follows:

"Whenever a district organized under the provisions of this article has secured a site of not less than five acres for the central high school building of said district and has erected thereon a school building, suitable for a central school and containing one large assembly room for the meeting of the citizens of the district and has installed a modern system of heating and ventilating, the state shall pay one-fourth of the cost of said building and equipment: Provided the amount thus paid by the state shall not exceed two thousand (\$2,000.00) for any one district. The state of Missouri shall, out of the general revenue fund of the state, make adequate appropriation for carrying out the provisions of this section and the money due any district shall be remitted by the auditor to the county treasurer of the proper county on receipt of a certificate from the state superintendent of public schools stating that the conditions herein prescribed has been complied with."

By virtue of the above section, it becomes the duty of the State Auditor to pay to the County Treasurer of the proper county one-fourth of the cost of the high school building and equipment, not exceeding two thousand dollars (\$2,000.00) for any one district, upon receipt of a certificate from the State Superintendent of Schools stating that the conditions prescribed in the above section have been complied with.

In pursuance of the above section, the Legislature made the following appropriation out of the general revenue fund of the state (Laws of Missouri, 1935, Section 56, page 113):

"There is hereby appropriated out of the State Treasury chargeable to the general revenue fund, the sum of Twenty-Five Thousand Dollars (\$25,000.00) for the purpose of carrying into effect the provisions of Section 9357 of the Revised Statutes of Missouri, 1929, which provide State aid for high school buildings in certain school districts."

Section 12 of Article X of the Constitution of Missouri provides in part as follows:

"No county, city, town, township, 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."

Section 9233, R. S. of Mo. 1929, provides how school moneys are applied, thus:

"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 9257, and no school warrant shall bear interest."

Section 9233, supra, leaves no doubt but that the board of directors is prohibited from drawing warrants on the treasurer unless there is money on hand in the various school funds out of which same can be paid. However, assuming that all of the conditions prescribed in Section 9357, supra, have been complied with and the State Superintendent of Public Schools has issued a certificate to the State Auditor to that effect, can the district consider same as anticipated revenue for the year in which the approval was given and issue warrants thereon to pay the contractor and other obligations against the district for the building?

In the case of Jacquemin & Shenker v. Andrews, 40 Mo. App. 507, 1. c. 510, the court said:

"The allegation is that they caused an order to be drawn on the county treasurer

for teacher's wages, when they knew there was then no money in that fund. It is not alleged that there did not afterwards, during that school year, come into the teacher's fund moneys from the state, county or district, out of which said warrant could be paid, so that there was no provision made to meet it. We take it, that, while the board of directors were, by the implication of the statute, prohibited from drawing said warrant on the treasury, unless there was money on hand of that fund, out of which it could be paid, still this prohibition must not be construed so as to preclude the directors from anticipating this fund, if the amount of their warrant could subsequently be paid out of any money coming into the county treasury for that school year, from either or all of the three sources from which that fund, by law, is derived.

"The provisions of the school law must be construed liberally so as to give them a practical effect. It might have been that the collection of the amount of the estimate of the annual meeting, for carrying on the school for that year, was delayed for some reason or that the income into the teachers' fund from the state or county may have been delayed, by reason of the default or miscarriage of some officer intrusted by law with the collection or disbursement of this fund, and thus it may have been prevented from reaching the county treasury at the proper time. We cannot think a warrant drawn upon the county treasury, under such circumstances when there was no fund then on hand to pay it, would hardly be deemed illegal or unauthorized."

From the foregoing, we are of the opinion that, assuming that all the conditions prescribed in Section 9357, supra, have been complied with, and the State Superintendent

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of Public Schools has issued a certificate to the State Auditor to that effect, the district may consider same as anticipated revenue for the year in which the approval was given and issue warrants thereon to pay the contractor and other obligations against the district for the building.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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