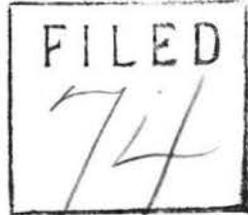


SCHOOLS: Section 9284, R. S. 1929, governs the length of term of the school. The county superintendent cannot compel rural districts to hold more than eight months term.

May 4, 1938

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Honorable E. L. Redman
Prosecuting Attorney
Gentry County
Albany, Missouri



Dear Sir:

This Department is in receipt of your letter of April 16, wherein you make the following inquiry:

"The county superintendent of schools of this county has recommended, as a part of his program for school advancement, nine months of school for the rural districts. Some of the districts are inquiring of him as to whether or not they can at this date provide for a nine months term.

"I should like an opinion of your office as to whether or not the board of directors of a common school has the power to extend the length of the school term to nine months where the issue has not been presented to the voters of the district. Also on that point, is there any other method provided for the extension of the term of rural schools, other than the provision for voting upon the question in the annual school election under the provisions of Sec. 9283, R. S. 1929?"

We have carefully consulted every statute which bears on the question which you present, and herewith quote every section which apparently throws any light on the matter.

Section 9195, R. S. Mo. 1929, is as follows:

"Whenever any school district in this state, now organized or that may be hereafter organized under the laws of this state, shall fail or refuse, for the period of one year, to provide for an eight months' school in such year, provided a levy of forty cents on the one hundred dollars' valuation, together with the public funds and cash on hand, will enable them to have so long a term, the same shall be deemed to have lapsed as a corporate body, and the territory theretofore embraced within such lapsed district shall be deemed and taken as unorganized territory, and the same, or any portion thereof, may be attached to any adjoining district or districts for school purposes, in the same manner as is now provided in section 9273: * * * *"

Section 13, Laws of 1931, page 340, is as follows:

"The board of directors of each and every school district in this state is hereby empowered and required to maintain the public school or schools of such district for a period of at least eight months in each school year. In order that each and every district may have the funds necessary to enable the board of directors to maintain the school or schools thereof for such minimum term and to comply with the other requirements of this act, it is hereby provided that when any district has legally levied for school purposes (teachers' wages and incidental expenses) a tax of not less than twenty cents on each one hundred dollars of the assessed valuation of property therein, such district shall

be allotted out of the public school fund of the state an equalization quota to be determined by adding seven hundred and fifty dollars for each elementary teaching unit to which the district is entitled according to the provisions of section 14 of this act, one thousand dollars for each high school teaching unit to which the district is entitled according to the provisions of section 14 of this act, and the amount approved for tuition and transportation according to the provisions of section 16 of this act, and then subtracting from the total, which total shall be known as the minimum guarantee of such district, the sum of the following items: * * *

Likewise, we have examined the statute relative to the powers of the county superintendent of schools. Defining generally and enumerating the powers of the county superintendent of schools is Section 9457, R. S. Mo. 1929. Among the powers enumerated in said section we find nothing which could be construed as giving the county superintendent blanket authority to require all districts to maintain a nine months school.

By careful analysis of the sections heretofore quoted we find nothing which could be construed to authorize the board of its own initiative to maintain more than an eight months school, or, in other words, a nine months school. The board of education, or a board of directors, is created by statute and its powers and functions are expressly delegated to said board by statute. As was said in the case of Consolidated School Dist. No. 6. v. Shawhan, 273 S. W., 1. c. 184:

"Plaintiff district is a corporation created by statute; its board of directors is what the statute makes it, having only such powers and functions as are expressly delegated to it. Armstrong v. School District, 28 Mo. App. 169. It is conceded that plaintiff is an incorporated school district under the law, and that defendants were the legally elected directors thereof. It was held in Bent v. Priest, 86 Mo. 475, 482:

"The directors of a corporation occupy a fiduciary position. They are trustees and agents of the corporation and stockholders. In general they are governed by the same rules as are applied to trustees and agents."

The only remaining section pertinent to the question is Section 9284, R. S. Mo. 1929, the pertinent part being as follows, and particularly sub-section denominated "Fourth":

"To determine, by ballot, the length of school term in excess of eight months * * * *"

Conclusion.

We are of the opinion that the provision of Section 9283, R. S. Mo. 1929, mentioned in your letter, providing for the annual meeting, and the provisions of Section 9284, R. S. Mo. 1929, which outlines and enumerates the powers and the questions to be determined at the annual meeting, govern the length of the term of a school district; that the question of the length of the term is a matter to be determined by the patrons and the qualified voters of a rural school district and that neither the board of directors nor the county superintendent has the power to exceed the terms of the statute and determine of their own volition as to whether or not the length of the term shall exceed eight months.

Respectfully submitted

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APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

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