

SCHOOLS: Necessity for voting for free transportation
annually - who may vote on proposition

February 21, 1938

2-21

Mr. G. Frank Smith
Superintendent of Public Schools
Holt County
Oregon, Missouri



Dear Sir:

This is to acknowledge your letter dated January
31, 1938, as follows:

"Will you please give me information on the following:

"Calling your attention to Sec. 9197. Free transportation of pupils - how obtained - by whom paid.

"Questions:

- "1. Is it necessary to vote transportation for each year? I read 'for the whole or for the part of the school year'
- "2. Who are qualified to vote on this proposition? I read 'If two-thirds of the voters who are taxpayers', just who is considered a taxpayer in this instance? "

I

DOES SECTION 9197 REQUIRE A VOTE
EACH YEAR FOR TRANSPORTING PUPILS?

Section 9197, Revised Statutes Missouri 1929, reads,

in part, as follows:

"Whenever the board of directors of any school district or board of education of a consolidated district shall deem it advisable, or when they shall be requested by a petition of ten taxpayers of such district, to provide for the free transportation to and from school, at the expense of the district, * * * * for the whole or for part of the school year, said board of directors or board of education shall submit to the qualified voters of such school district, who are taxpayers in such district, at an annual meeting or a special meeting, called and held for that purpose, the question of providing such transportation for the pupils of such district;"

The above section requires voters who are district taxpayers to vote for the transportation of the pupils in their district. The bringing of the question to the attention of such voters may be by the board itself or upon a petition, and said question to be presented at either an annual meeting or special meeting. The said voters determine the question of transporting the pupils for a definite period of time; to-wit, "for the whole or for part of the school year." Section 9197, supra, provides further that when two-thirds of the "voters" favor transporting the pupils, that then the duty is vested in the board of directors to arrange and provide for transportation. The Board of directors are empowered to make all needful rules and regulations and to pay for the expense of such out of the incidental fund of the district. It is therefore seen from a reading of Section 9197 that funds of the district will be expended for free transportation of pupils of such district, and, therefore, a safeguard has been prescribed by the Legislature, so that the voters who are district taxpayers must vote the power to the board of directors in order to pay money for the transportation.

It follows that the limitation in Section 9197, that the question voted upon at the annual or special meeting must be for the free transportation of pupils "for the whole or for part of the school year" means that it is necessary to vote transportation each year, in our opinion.

II

WHO ARE ELIGIBLE TO VOTE UPON THE
PROPOSITION OF FURNISHING FREE
TRANSPORTATION AS PROVIDED FOR IN
SECTION 9197?

Section 9197 provides that "said board of directors or board of education shall submit to the qualified voters of such school district, who are taxpayers in such district, * * * * Provided, * * * * If two-thirds of the voters, who are taxpayers, voting at such election, * * *," and which limits those eligible to vote upon the question of free transportation to qualified voters who are district taxpayers. In other words, a person may be a qualified voter and yet not be a district taxpayer; consequently such person could not vote. It thus takes a combination of a qualified voter and a district taxpayer to be eligible to vote. A qualified voter is defined by Section 9287, Revised Statutes Missouri 1929, as follows:

"A qualified voter within the meaning of this chapter shall be any person who, under the general laws of this State, would be allowed to vote in the county for state and county officers, and who shall have resided in the district thirty days next preceding the annual or special meeting at which he offers to vote."

However, in order to vote on the transportation question, one must be also a district taxpayer. A person will be a district taxpayer if he pays taxes in the district in which he votes. In other words, he may be

Mr. G. Frank Smith

-4-

February 21, 1938

qualified to vote upon state and county officer and a taxpayer in some other district, but in order to vote upon the transportation question he must be a taxpayer in the district which votes transportation, as Section 9197 provides: "who are taxpayers in such districts."

Yours very truly

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED

J. E. TAYLOR
(Acting) Attorney General

JLH LC