

COUNTY COURTS:  
TOWNSHIP TREASURERS:  
SETTLEMENTS:

County courts in counties under township organization may examine and approve settlements of township trustees.

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January 5, 1940

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Honorable G. R. Chamberlin  
Prosecuting Attorney  
Cass County  
Harrisonville, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you submit a request based upon the following statement:

"The matter of Township Trustees making settlement has been brought to my attention for the following reason, the Township Organization has been adopted and the County is being operated under the Township Organization Law.

"The County Court is and has for a long time been calling in the Trustees of each Township twice a year in order to go over a 'settlement' with the Township Trustee, and there being eighteen townships in the County it usually takes five or six days extra setting on the part of the County Court to 'check up' the settlement of the Township Trustees.

"Section 12290 Revised Statutes of Missouri 1929, provides that the Township Trustee and Ex-Officio Treasurer shall make settlement annually between the 20th day of March and the 15th day of April with the County Clerk of all moneys received by him on account of schools, etc.

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"Section 12292 provides that the Treasurer settle annually with the Township Board and account for all moneys, etc., and in the same Section provides that the Township Clerk shall on or before the 15th of July each year deliver to the County Clerk a certified copy of the settlement which shall constitute the required settlement by which the County Clerk shall make his annual settlement with the State Superintendent of Schools.

"These are the only two Sections that I am able to find on which the County Court may assume its right to call in these Township Trustees and make settlement.

"It appears that there has been quite a development along this line and I am enclosing a copy of the settlement used by the County Court, which you will notice goes into all the affairs of the Township.

"I would appreciate your valued advice on this matter as the so-called settlement by the County Court costs the County a considerable amount of money each year and if it is not authorized by law of course the County Court does not wish to assume an unauthorized act."

The township treasurer, in counties under township organization, Section 12292, R. S. Missouri 1929, is required to make settlements with the township board. This section provides as follows:

"The township treasurer shall, annually, between the first day and the tenth day of July of each year, settle with the township board and account for all school moneys received, from whom and on what account, and the amount paid out for school purposes and for building purposes to the various school districts of the township. The township board shall examine the vouchers for such payments, and, if satisfied with the correctness thereof, shall certify the same, which certificate shall be prima facie a discharge of such liability of the treasurer for the funds expressed in the vouchers. The township clerk shall, on or before the fifteenth of July of each year, deliver to the county clerk a certified copy of said settlement, which shall constitute the required settlement by which the county clerk shall make his annual settlement with the state superintendent of public schools."

Under Section 12290, R. S. Missouri 1929, the township trustee is required to make a settlement with the county clerk for school funds. This section provides as follows:

"He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part

in the township and the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, and shall pay all warrants drawn on him by the board of school directors in his township out of the funds belonging to the district making the order, and he shall not pay any money out belonging to any other fund than that mentioned in the warrants, and he shall file with the township clerk on or before the day of the regular meeting of the township board in April a detailed statement of all money by him received and paid out, to whom and out of what fund, and the amount on hand, and at the expiration of his term of office he shall turn over to his successor all moneys, books and papers belonging to the office, and take duplicate receipts for the same, one to be filed with the township clerk, the other to be retained by himself."

It seems under the two foregoing sections that the lawmakers have set up a system for the accounting for and settlement by the township officers of the public moneys which come into their hands. Your request particularly applies to the question of whether or not the county court, after the proper officers have made

the settlements as is required by the two foregoing sections, would be authorized or required to meet and go over these settlements and finally approve them. It will be noted under said Section 12290 that the settlement provided therein is made with the clerk of the county court. Since this settlement pertains to matters in which the county, as a whole, is interested, then the county court, while it may not be required to examine and approve such settlements, yet under the Constitution and statutes which requires the county court to manage the general county business, might have authority to examine and approve them.

Under Section 36 of Article VI of the Constitution of Missouri it is provided as follows:

"In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law."

In State ex rel. Buckner v. McElroy, 309 Mo. at 595, the court, in speaking of jurisdiction of county courts in matters pertaining to the county, held that the "jurisdiction of county courts is fixed by the Constitution and the Legislature is without power to limit the powers thus conferred," so if said Sections 12290 and 12292 attempt to limit the constitutional powers of the county court in its jurisdiction to transact county business, then those sections would have to yield to the foregoing provisions of the Constitution.

Section 2078, R. S. Missouri 1929, provides as follows:

"The said court shall have control and management of the property, real and personal, belonging

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to the county, and shall have power and authority to purchase, lease or receive by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed any real estate, goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

We think that school moneys would be considered as property belonging to the county generally to such an extent that the county court, in the exercise of its statutory and constitutional powers, would be authorized to exercise some jurisdiction over such moneys in determining whether or not they are being properly disbursed.

CONCLUSION.

From the foregoing it is the opinion of this department that even though the county court is not required under Sections 12290 and 12292, R. S. Missouri 1929, to examine and approve the settlements of township officers pertaining to school moneys, yet under the constitutional and statutory provisions cited above such courts, in the exercise of their constitutional and statutory duties, may, in their discretion, examine and approve such settlements of the township officers.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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W. J. BURKE  
(Acting) Attorney General

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