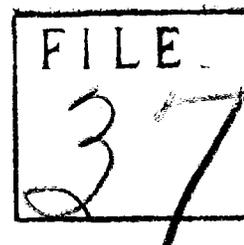


SCHOOLS: Under the Act of 1941, page 546, it is proper  
COUNTY for the State Superintendent to request  
SUPERINTENDENTS: the County Treasurers of the various  
counties to obtain an order from the  
County Court to require the State  
Auditor to pay the same.

November 15, 1941

11-19

Mr. R. Stuckey Harrington  
Prosecuting Attorney  
Clinton County  
Plattsburg, Missouri



Dear Sir:

This Department is in receipt of your letter of  
November 8, 1941, wherein you make the following re-  
quest:

"I respectfully request an opinion  
upon the legality of paying county  
superintendents of schools additional  
compensation in accordance with  
Section 10327-b of the 1941 session  
acts.

"Therein the State Superintendent of  
Schools is to issue his warrant payable  
to the treasurers of the several counties  
who shall, in turn, pay over such com-  
pensation monthly to the county superin-  
tendent of schools. Under Section 13026 -  
General duties of State Auditor - the  
State Auditor 'shall draw all warrants  
upon the treasury for money, except only  
in cases otherwise expressly provided by  
law.'

"Is the enactment of Section 10327-b of  
the 1941 session acts 'a case otherwise  
expressly provided by law.?'

"And then in a letter from the State Superintendent of Schools, he states that the proper procedure is that he shall certify to the county treasurer each month that the county superintendent of schools is entitled to the additional compensation, based upon population of county, and that the treasurer shall order the county court to requisition the State Auditor for payment of same, and that the State Auditor shall send warrant for said amount to the county treasurer who, in turn, pays the amount directly to the county superintendent of schools.

"Which procedure - if either - should we pursue to make legal payment thereof?"

The Act to which you refer, being Section 10327-b, was passed by the General Assembly in 1941, Laws of Missouri, page 547. After enumerating the salaries, according to population, Section 10327-b contains the following provision:

"\* \* \* \* \* On or before the 20th day of each month the State Superintendent of Schools shall issue his warrant payable to the treasurers of the several counties of the State of Missouri for one-twelfth part of the salaries herein provided, to be paid out of funds appropriated by the General Assembly for the support and maintenance of public schools under the provisions of Article XI, Section 7 of the Constitution of Missouri. The county treasurers of the several counties shall pay over such compensation monthly and at the same time he pays the county superintendent of schools his salary for the performance of his other duties."

Mr. R. Stuckey Harrington

(3)

Nov. 15, 1941

The statutes use the words "warrant payable to the treasurer by the State Superintendent of Schools," but we consider this as an error by the Legislature, in that it was intended that the State Superintendent of Schools should requisition the county treasurers of the several counties, and they in turn, through the county court, requisition the State Auditor, whose duty it is to pay out funds of any nature belonging to the State and duly appropriated.

Referring to Section 13026, R. S. Missouri, 1939, we are of the opinion that it is the duty of the State Auditor to pay out all funds appropriated by the General Assembly, as the statutes now require all funds of whatever nature and from whatever source to be paid in the state treasury.

Therefore, we are of the further opinion that the Act of 1941, page 547, does not constitute an instance "otherwise expressly provided by law, and the manner or procedure in which the State Superintendent of Schools proposes to pay the County Superintendent's additional salary is proper.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

---

VANE C. THURLO  
(Acting) Attorney General

OWN/rv