

SCHOOL FUND DISTRIBUTION: County and Township school funds merged into one fund after liquidation.

26 to  
Mr. John

June 5, 1947

6/6

FILED  
H

Honorable Ralph Baird  
Prosecuting Attorney  
Jasper County  
Joplin, Missouri

Dear Mr. Baird:

This is in reply to your letter of May 22, 1947, in which an official opinion of this department was requested on the following question:

"Is the capital of a particular Township fund to be distributed only to the schools in that Township, on a basis of enumeration, or, is the capital of the Township funds to be added to the capital of the Capital School Fund for countywide distribution to all the school districts of the County according to enumeration."

The specific question for consideration is whether the various county and township school funds, after liquidation, under the provisions of Section 7, Article IX of the 1945 Constitution, and Sections 10376 and 10383, Mo. R.S.A., which implement that section, are merged into one fund or whether they retain their separate identities for the purpose of distribution. Your attention is directed to the above constitutional provision, which reads as follows:

"All real estate, loans and investments now belonging to the various county and township school funds, except those invested as hereinafter provided, shall be liquidated without extension of time, and the proceeds thereof and the money on hand now belonging to said school funds

of the several counties and the city of St. Louis, shall be reinvested in registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States, and sacredly preserved as a county school fund. Any county or the city of St. Louis by a majority vote of the qualified electors voting thereon may elect to distribute annually to its schools the proceeds of the liquidated school fund, at the time and in the manner prescribed by law. All interest accruing from investment of the county school fund, the clear proceeds of all penalties, forfeitures and fines collected hereafter for any breach of the penal laws of the State, the net proceeds from the sale of estrays, and all other moneys coming into said funds shall be distributed annually to the schools of the several counties according to law."

You will note the Constitution provides that all securities, after liquidation, and money belonging to the county and township school funds "shall be \* \* \* preserved as a county school fund"; however, that "any county \* \* \* may elect to distribute \* \* \* the proceeds of the liquidated school fund." It is also provided that " \* interest accruing from investment of the county school fund, \* \* \* shall be distributed \* \* \*." The language of the Constitution is clear and unambiguous in providing that the liquidated county and township school funds are to be merged into and preserved as one fund, that is, the county school fund.

The wording of the statutes implementing said constitutional provision is equally as clear. Section 10376.1, Mo. R.S.A., provides as follows:

"Whenever there shall be presented to the body having in its charge the capital of the county and township school funds of any county or the City of St. Louis a petition, signed by qualified electors of said county or the City of St. Louis equal

in number to five per cent of the voters casting a ballot in said county or the City of St. Louis for the office of governor at the last preceding general election at which said office was voted upon, praying that the proposal be submitted to the qualified electors for making annual distribution of the capital of the liquidated school fund, such body shall cause an election to be held upon said proposal."

In the above section and throughout Section 10376.2, Mo. R. S. A., we find frequent use of such terms as "capital of the liquidated county and township school funds" and "accumulated balance of such funds." Where there is such a clear expression of the intention of the framers of the law found in the wording, we cannot admit to another construction but must give effect to that intention. This rule is set out in the case of *Gendron v. Dwight Chapin & Co.*, 37 S. W. (2d) 486, at page 488:

"In construing the act, we are bound to ascertain and give effect to the intention of the Legislature as expressed in the statute, and, where the meaning of the language used is plain, it must be given effect by the courts (*Betz v. Kansas City Sou. Ry. Co.*, 314 Mo. 390, 284 S. W. 455, 461; *Grier v. Ry. Co.*, 236 Mo. loc. cit. 534, 228 S. W. loc. cit. 457; *Sleyster v. E. Donzelot & son* (Mo. App.) 25 S. W. (2d) loc. cit. 148), and this without regard to the results of the construction or the wisdom of the law as thus construed (*State ex rel. v. Wilder*, 206 Mo. 541, 105 S. W. 272), and we have no right, by construction, to substitute any ideas concerning legislative intent contrary to those unmistakably expressed in the legislative words (*Clark v. Railroad Co.*, 219 Mo. loc. cit. 534, 118 S. W. loc. cit. 44)."

The language of the provisions above is plain and unambiguous and must be taken as the final expression of the meaning

intended and given effect as written. In Thompson v. Siratt, 95 Fed. (2d) 214, a Missouri case, the Circuit Court of Appeals for the 8th Circuit said, at page 216:

"\* \* \* Where a statute is plain and unambiguous, and 'construction according to its terms does not lead to absurd or impracticable consequences, the words employed are to be taken as the final expression of the meaning intended.' United States v. Missouri Pacific Railroad Company, 278 U. S. 269, 278, 49 S. Ct. 133, 136, 73 L. Ed. 322; Helvering v. City Bank Farmers' Trust Co., 296 U.S. 85, 89, 56 S.Ct. 70, 72, 80 L.Ed. 62; Osaka Khosen Kaisha Line v. United States, 500 U.S. 98, 101, 57 S.Ct. 356, 357, 81 L.Ed. 532. \* \* \*"

Also, in the case of St. Louis Amusement Co. v. St. Louis County, 147 S. W. (2d) 667, at page 669:

"We need not conjecture as to the intent of the legislature in creating this exemption because we find the language of the statute is plain. And where the language of a statute is plain and unambiguous it may not be construed. It must be given effect as written."

This conclusion is strengthened by the fact that nowhere in the above cited constitutional and statutory provisions is there an indication that a former township school fund should retain its separate identity for the purpose of distribution to the school districts within that particular township.

#### Conclusion

Therefore, it is the opinion of this department that the county and township school funds, after liquidation, under the provisions of Section 7, Article IX of the 1945 Constitution,

Hon. Ralph Baird

-5-

and Sections 10376 and 10383, Mo. R. S. A., are merged into one fund, that is, a county school fund, which is to be distributed under the provisions of Sections 10376.1 and 10376.2, Mo. R.S.A., to all districts of the county according to law.

Respectfully submitted,

DAVID DONNELLY  
Assistant Attorney General

APPROVED:

---

J. E. TAYLOR  
Attorney General

DD:EG