

SCHOOLS: Duties of county and township collectors and treasurers under Senate Bill No. 307, Laws of Missouri, 1947, page 370.

September 20, 1949

9/26/49

Honorable W. H. Holmes
State Auditor
State Capitol Building
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your recent request for an official opinion which reads as follows:

"In reorganized school districts, each unit comprising the reorganized district has for the year 1949, and prior years levied school taxes as independent units. Also, the County Treasurer has in his hands funds belonging to each unit comprising the reorganized district, broken down as to funds (teachers, incidental, etc.)

"The questions are:

"(1) Should the collector of revenue in his monthly turnover of tax collections to the treasurer of the reorganized districts, report the amount collected in each district comprising the reorganized district, or report the collections for all the districts in a lump sum?

"(2) Should the county treasurer in making the transfer of the funds in his hands to the treasurer of the reorganized district, submit a statement of the amount to the credit of each district, broken down as to funds (teachers, incidental, etc.) or report the total amount in a lump sum for all districts and all funds?

"(3) Would the board of directors of the reorganized district have authority to re-allocate the moneys received from the county treasurer and county collector to the teacher's fund and incidental fund, according to the needs determined by them, or should the

moneys be placed to the credit of the funds in accordance with the tax levies fixed by each unit comprising the reorganized district?"

The questions submitted in the foregoing request for an opinion will be considered in the order in which they have been stated, and the term "reorganized school district" as used in the request will be construed to mean a reorganization accomplished pursuant to a law enacted by the 64th General Assembly of Missouri, being Senate Bill No. 307, found in Laws of Missouri, 1947, Volume II, page 370.

No provision contained in Senate Bill No. 307, supra, contains any directive to the county and township collectors relative to monthly turnover of tax collections to treasurers of reorganized districts. Section 10 of the new reorganization law does provide, in part, that " * * * the directors above provided shall be governed by the laws applicable to six director school districts." The special law applicable to six director school districts is to be found in Article 5 of Chapter 72, R. S. Mo. 1939, and therein we find that county and township collectors are directed to make a monthly turnover of school moneys collected direct to the treasurer of the board of education.

Section 10482, Article 5, Chapter 72, R. S. Mo. 1939, provides as follows:

"The county or township collector shall pay over to the treasurer of said board of education all moneys received and collected by him to which said board is entitled at least once in every month; and upon such payment he shall take duplicate receipts from said treasurer, one of which he shall file with the secretary of said board of education, and the other shall be filed in his settlement with the county court."

The foregoing section does nothing more than require the monthly turnover of school tax moneys to the treasurer of the board of education and requires the collector to take duplicate receipts for such moneys. This particular section is to be followed by county and township collectors in making a monthly turnover of school tax moneys to treasurers of reorganized school districts formed pursuant to Senate Bill No. 307, supra.

However, in enacting the current school reorganization law just referred to, the Legislature did not formulate a rule to guide county and township collectors in making monthly turnovers of school tax moneys assessed, levied and collected in each of the several component school districts making up the reorganized district. It cannot be reasonably contended that it was imperative for the Legislature to state such a rule, in view of the duty imposed on county and township collectors to make a monthly turnover of moneys to treasurers of school districts entitled to such money, and when we further consider the type of receipt collectors are required to give, relative to school taxes, when they receive tax books from a county clerk.

Section 10398, Article 2, Chapter 72, R. S. Mo. 1939, provides:

"It shall be the duty of the county clerk to take a receipt from the county collector for the school taxes by him placed on the general tax books; and the collector shall proceed to collect the same in like manner as the state and county taxes are or may be collected, and he shall receive, as full compensation for his services on the amount collected and paid over by him, the same per cent as is allowed by law to collectors for collecting other taxes; and he shall pay over monthly, to the county treasurer, all such taxes collected and take his receipt therefor."

The foregoing section requires a county clerk to take a receipt from the county collector for school taxes placed on the general tax books. School taxes are assessed, levied and extended on the tax books for each individual school district--no two school districts being required to have corresponding levies within the maximum limitations. The only sound rule for collectors to follow in reporting monthly collections of school taxes to treasurers of reorganized districts is to make their report reflect what was actually accomplished, to-wit: the collection of school tax moneys as the same were assessed and levied. Consequently, county and township collectors of revenue in their monthly turnover of tax collections to treasurers of school districts reorganized pursuant to authority contained in Senate Bill No. 307, supra, should report the amount collected in each district forming a component part of the reorganized district so long as each component district has assessed a school tax therein for subsequent levy and collection and the same has not been subjected to revision by the reorganized and enlarged district before such original levy was acted upon. If the reorganized district has withdrawn the estimates filed by the component districts and filed a new estimate, of course the report of the collector shall show only the amount of the different funds for the entire reorganized district.

We next consider whether the county and township treasurers, in making the transfer of funds in their hands to the treasurer of the reorganized district, should submit a statement of the amount to the credit of each district forming a part of the reorganized district, broken down as to funds (teachers, incidental, etc.) or report the total amount in a lump sum for all districts and all funds.

Section 11 of Senate Bill No. 307, Laws of Missouri, 1947, Volume II, page 376, provides:

"The terms of office of all school directors and officers of the various school districts comprising the territory incorporated in such enlarged school districts shall cease upon the adoption of the plan of reorganization and the organization of the board of directors, and such officers shall deliver to the board of directors of the enlarged school district all property, records, books and papers belonging to such component districts. All funds in the hands of the county or township treasurer to the credit of the various districts composing such enlarged district, shall be immediately transferred to the credit of the treasurer of such enlarged district. If any former six-director district shall be merged in any enlarged district, as provided herein, the treasurer of such former six-director district shall immediately turn over to the treasurer of such enlarged district, all funds belonging to such former six-director district, and shall make settlement therefor as provided by Section 10480, Revised Statutes of Missouri, 1939: Provided, that the directors of such enlarged district shall faithfully perform all existing contracts and legal obligations of the component districts."

In the foregoing quoted Section 11 of Senate Bill No. 307, supra, treasurers of former six director districts which become a part of a reorganized district are given positive directions as to the type of settlement they are to make when making a turnover of funds in their hands at the time reorganization is effected, but no rule is laid down in this section to guide county and township treasurers in making any particular type of settlement which will account for the turnover of moneys in

their hands at the time of reorganization. In formulating a rule in this regard, we state that the rule must require the county and township treasurers to make a report sufficiently comprehensive in its terms and disclosures to fully acquaint the treasurer of the reorganized district with all facts touching prior receipts and disbursements of funds in the hands of such treasurers.

Section 10347, R. S. Mo. 1939, reenacted, Laws of Missouri, 1945, page 1629, and found in the law applicable to all classes of schools, provides:

"The board of directors of each school district shall, on or before the fifteenth day of May of each year, forward to the County Superintendent of Schools an estimate of the amount of money to be raised by taxation for the ensuing school year, and the rate required to produce said amount, specifying by funds the amount and rate necessary to sustain the school or schools of the district for the time required by law or authorized by the qualified voters of the district, to meet principal and interest payments on the bonded debt of the district, and to provide such funds as may have been ordered by the qualified voters of the district for other legitimate district purposes, including the purchase of school building sites, buying or erecting school buildings, repairing and furnishing such buildings, and providing foot bridges across running streams."

It will be noted that this statute just quoted provides that the estimate required to be filed on or before May 15 of each year by each school district must not only disclose the estimated amount of money to be raised by taxation for the ensuing year, but must include the rate required to produce such an amount, specifying by funds the amount and rate necessary to sustain the school for the period authorized. On the basis of such an estimate, school taxes are assessed, levied, collected and disbursed. To require a county or township treasurer, in making a turnover of all funds in their hands to the credit of the various districts composing the reorganized district, to do less than submit a statement of the amount to the credit of each district, broken down as to funds (teachers, incidental, etc.), would be to ignore sound accounting procedures

and would in no way disclose a true and accurate statement of accounts by such treasurers. This conclusion is necessary to harmonize the enactment under consideration, Senate Bill No. 307, supra, with the many germane clauses of Missouri's school law.

At this point we pass to the third question submitted in the opinion request and seek to ascertain the authority of the board of directors of the reorganized and enlarged district to reallocate moneys, received from county and township treasurers and county and township collectors, to the teachers' fund and incidental fund, according to the needs determined by such board of directors. This question may be resolved by referring to Section 10366, R. S. Mo. 1939, reenacted, Laws of Missouri, 1943, page 893, which provides, in part, as follows:

"All school moneys received by a school district shall be disbursed only for the purposes for which they were levied, collected or received. * * * "

The statute just referred to is a positive directive touching the application of school moneys and constitutes a rule which can only yield to the exceptions contained in the statute and with which we are not compelled to deal in disposing of the question at hand. In this instance we are only dealing with the right of the board of directors of the reorganized and enlarged school district to reallocate moneys coming into their treasury by virtue of the reorganization and consolidation affected pursuant to authority contained in Senate Bill No. 307, supra, such moneys having previously lawfully been allocated by separate school districts comprising the enlarged district. The statute in question has previously been construed by the Supreme Court of Missouri in the case of Russell et al. vs. Frank et al., 348 Mo. 533, 154 S.W. (2d) 63, 1.c. 67, wherein the court stated:

"The appellants contend that the General Assembly has power to provide for the transfer of a balance from the building fund to the general fund and that it has made such provision in Section 10366, R. S. Mo. 1939, Mo. St. Ann. Section 9233, p. 7096. This argument is beside the point. The statute cited might indeed cover a case where a tax was in good faith levied and collected for the erection of a building but yielded more revenue than was necessary for that purpose, so that a surplus was

left after the building was completed and paid for. It cannot, however, be made a cloak to shield the action of the Board which has intentionally levied such a tax ostensibly for building but with the knowledge that no building would be erected and with the real purpose of spending the entire revenue derived from the tax for the maintenance of its school system."

The above ruling discloses that the statute in question is to be strictly construed, and especially so, against those who would seek to make the exceptions contained therein serve an ulterior design. The wording of the statute is unambiguous and its positive directives are not to be ignored.

CONCLUSION

It is, therefore, the opinion of this department that:

(1) County and township collectors, in reporting monthly collections of school taxes to treasurers of school districts reorganized and enlarged pursuant to Senate Bill No. 307, Laws of Missouri, 1947, Volume II, page 370, should report the amount collected in each district forming a component part of the reorganized district so long as each component district has assessed a school tax therein for subsequent levy and collection and the same has not been subjected to revision by the reorganized and enlarged district before such original levy was acted upon. If the reorganized district has withdrawn the estimates filed by the component districts and filed a new estimate, of course the report of the collector shall show only the amount of the different funds for the entire reorganized district.

(2) County and township treasurers, in making a turnover of all funds in their hands to the credit of the various districts composing the reorganized and enlarged districts formed pursuant to authority contained in Senate Bill No. 307, Laws of Missouri, 1947, Volume II, page 370, should submit a statement of the amount to the credit of each district, broken down as to funds (teachers, incidentals, etc.).

(3) The board of directors of a reorganized and enlarged

school district operating under the provisions of Senate Bill No. 307, Laws of Missouri, 1947, Volume II, page 370, does not have authority to reallocate the moneys received from county and township treasurers and county and township collectors to the teachers' fund and incidental fund, according to the needs determined by such board of directors, but must be guided solely by the provisions contained in Section 10366, R. S. Mo. 1939, as reenacted, Laws of Missouri, 1943, page 893.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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