

COUNTY COURT: Roads, Bridges and Schools. How funds received from federal government on account of leasing of lands acquired for flood control purposes shall be distributed by County Court.

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Division of Resources and Development
Department of Business and Administration
Jefferson City, Missouri

Attention: Mr. H. H. Mobley, Director

Gentlemen:

This will acknowledge receipt of your request for an opinion from this department. For the sake of brevity we are restating your request.

You inquire if under the Flood Control acts, Public Law 761, enacted by the 76th Congress, and Public Law No. 228, enacted by the 77th Congress, wherein the Federal Government pays to the State funds to be expended as the State Legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such property is situated, does the county court have authority to apportion such moneys received from the Government under the foregoing Acts in the amounts deemed necessary by the county court, and to allocate moneys apportioned for schools' use to all the schools in the county, and not exclusively to the schools in the reservoir area which are no longer in existence.

The primary rule of statutory construction is that statutes should be construed to ascertain and give effect to the legislative intent explained therein. (See City of St. Louis v. Senter Commission Company, 85 S.W. (2d) 21, 337 Mo. 238, also Missouri Pacific Railroad Company v. Helmerich, 12, F. (2d) 978.)

Your request goes only to how such funds shall be distributed and expended by the county court which are received from the federal Government on account of the leasing of lands acquired by the United States for flood control purposes in this State, and not relative to funds received from the National Forestry Reserves. Section 701c-3, U. S. Code Ann. Title 33 reads:

"75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood-control purposes shall be paid

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at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such property is situated: Provided, That when such property is situated in more than one state or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein."

In determining the authority of the county court to distribute the foregoing funds; we should not confuse the law relative to the distribution of this fund with funds received from the National Forestry. Under Section 500, as amended, Title 18, U. S. Code, Ann. and the enabling act passed by the legislature of the State of Missouri, Section 12695, R.S. Mo. 1939, since said Section 12695, supra, only applies to such funds the State may receive from the National Forestry Reserves.

The General Assembly of the State of Missouri passed an enabling act for the specific purpose of carrying out the foregoing provision relative to the distribution of federal funds under Section 701c-3, supra, Section 12696, R.S. Mo. 1939, reads:

"All sums of money heretofore received or that may hereafter be received from the United States, or any department thereof under an Act of Congress approved June 28, 1938, being an act providing for the payment to the several states of 25 per centum of all moneys received for leases of land situated in the various states to which the United States owns fee simple title under the Flood Control Act of May 15, 1938, as amended and supplemented, to be expended as the General Assembly may prescribe for the benefit of the public schools and public roads of the county or counties in which such government land is situated, or as provided by any Acts of Congress authorizing the distri-

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tribution of income or revenue from such lands owned by the United States of America or any of its departments, bureaus or commissions or any agency of the United States of America, to states or counties or as provided by any amendments to said acts, shall be expended as the county court of the county entitled to receive such funds may direct in accordance with the provisions and regulations as have been or may be in the future provided by the Acts of Congress providing for such distribution to states and counties."

Section 12678, R.S. No. 1939, merely requires the county court of each county receiving any such funds to use same for aid in maintaining schools and roads in accordance with Sections 12695 and 12696, supra, which simply means that funds received under and by virtue of Section 701c-3, supra, shall be distributed by the County court in accordance with Section 12696, supra, and those funds received under and by virtue of Section 500, supra, shall be distributed by the county court as provided by Section 12696, supra.

Therefore, it is the opinion of this department that funds received by the county court under Section 701c-3, U. S. Code Ann., Title 33, shall be apportioned by the county court to schools and roads in said county in whatever amount the county court deems advisable or necessary. Furthermore, the county court may allocate such funds designated for the use of such schools to all the schools in the county, and not exclusively to schools originally in the reservoir area, and no longer in existence.

Respectfully submitted,

APPROVED:

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