

SCHOOLS )  
TAXATION )

tax rate applicable in reorganized school districts.

September 10, 1949

9/15/49



Honorable John P. Peters  
Prosecuting Attorney  
Osage County  
Linn, Missouri

Dear Sir:

We have received your request for an opinion of this Department, which request is as follows:

"At a recent Election in this County of Osage, a large reorganization, school district set up, was adopted by the voters thereof, embracing 13 common School districts and designated by the County Board as "R--1" and in which there is now a six director board, required to levy at least \$1.00 on the \$100.00 valuation. These 13 common School districts, taken in, by their proper officers, had by May 15th, submitted their respective levies, for use of the County Clerk, in extending the taxes on the books, to be turned over to the collector, for the fall collections of County Revenues.

"Soon, and within a few days, the new large reorganized district, will elect its six member board of directors and be in working order.

"Now, since the County Clerk is making up his books for the collector, does he follow the rates of levy, by these 13 common School districts, now on file, or has the New Board of the reorganized and enlarged district, the power, at this late day, to change those rates of levy in obedience to the law, requiring them to levy at least \$1.00. None of the 13 common School districts, levied as high as \$1.00."

Reorganization of school districts was provided by Senate Bill No. 307 of the Sixty-fourth General Assembly, found in Laws of 1947, Volume II, page 370. That Act makes no provision concerning the tax rate within a district which is organized subsequent to May 15th, the date fixed by Section 10358, Mo. R.S.A., for the submission of estimates and rates of taxation for the ensuing year.

Section 11 of the School Reorganization Act provides as follows:

"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."

Under this provision, we are of the opinion that immediately upon organization of the board of directors of the reorganized district, the new board would immediately take over management of the affairs of the component districts and exercise all of the powers and duties formerly vested in the directors of such districts.

We are enclosing herewith an opinion of this Department dated September 7th, 1949, addressed to Honorable Robert G. Kirkland, Prosecuting Attorney of Clay County, on the question of the tax rate applicable upon annexation of school districts. In that opinion we pointed out that in the case of Lyons v. School Dist., 311 Mo. 349, 278 S.W. 74, the Supreme Court upheld the right of the

board of directors of a school district to withdraw an estimate previously filed and submit a new one on which a different rate of taxation may be levied.

We are of the opinion that the directors of the reorganized school district, as successors of the board of directors of the component districts, would have authority to withdraw the estimates filed by such district and submit a new estimate which may be the basis of a new levy at a rate not in excess of that which, under Section 11 of Article X of the Constitution of 1945, may be imposed without approval by the voters of the district.

It has been suggested that the formation of a reorganized district would automatically withdraw the estimates previously filed by the component districts. However, the Supreme Court has held in the case of State ex rel. v. Young, 327 Mo. 909, 38 S.W. (2d) 1021, referred to in the enclosed opinion, that the filing of an estimate is essential to the validity of any school tax levy. Should the formation of a newly reorganized district operate automatically to withdraw estimates previously filed, there might be insufficient time to permit the filing of new estimates, and, therefore, there would be no estimate on file on which to base the levy of a school tax for the particular year. We feel, therefore, that some affirmative action on the part of the directors of the reorganized district must be taken in order to withdraw the estimates previously filed.

As pointed out by the Supreme Court in the Lyons case, the new estimate must be submitted prior to the time that the old ones have been acted upon by the county clerk in extending the taxes on the books for the use of the collector.

#### CONCLUSION.

Therefore, we are of the opinion that upon the formation of a reorganized school district in accordance with Senate Bill No. 307 of the Sixty-fourth General Assembly, Laws of 1947, Volume II, page 370, the directors of such reorganized district may withdraw the estimates of the various districts making up such reorganized district and submit a new estimate on which the levy of a tax at the rate of One Dollar per hundred dollars may be based, provided that such action is taken before the estimates submitted by the various districts have been acted

Hon. John P. Peters

-4-

upon by the county clerk in extending the taxes. If no action is taken to withdraw the estimates filed by the districts forming the reorganized district, the taxes should be extended according to the estimates filed on behalf of such districts.

Respectfully submitted,

ROBERT R. WELBORN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General



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Enclosure