

COUNTY TREASURERS: County and township treasurers have no authority to hold or disburse funds of school districts enlarged or reorganized under the provisions of Section 1, Laws of Mo. 1947, Vol. II, page 371.

September 21, 1949

9/28/49

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



Dear Mr. Peters:

Your letter of September 14, requesting an opinion, is as follows:

"Under the new School law, and particularly Section 11, on page 376, Vol. II, Laws of Missouri, 1947, should these new enlarged or reorganized districts choose a treasurer, under bond, as required of 'City, Town and Consolidated districts' or should their funds be in custody of the County Treasurer and disbursed by the county treasurer?"

"Even if said Section 11, by fair implication, contemplates that such new districts should have their own treasurer, yet would it be lawful, notwithstanding that fact, for the County Treasurer to handle and disburse the funds of such districts, the same as for common school districts?"

The statutes governing the problems you raise are as follows:

Section 10, Laws of Missouri, 1947, page 375, states the new laws governing the election of directors in the enlarged and reorganized school districts, and provides that they (the directors) shall be governed "by the laws applicable to six-director school districts."

Laws of 1931, Section 21, page 334, entitled "An Act to Provide for the Establishment of Enlarged School Districts," is set out in R. S. Mo. 1939, Section 10466, in part, as follows:

" * * * The ballot shall contain a statement of the proposition and space for voting thereon, reading 'For Organization of New School District' and 'Against Organization of New School District', also said ballot shall contain the names of candidates for membership on the new Board of Education. * * * The two candidates for the Board of Education receiving the highest number of votes shall be elected for three years, the next two for two years, and the next two for one year. * * *"
(Underscoring ours.)

R. S. Mo. 1939, Section 10470, relating to organization of board and duties of officers of the consolidated six-director school districts, provides, in part, as follows:

" * * * and the board shall, on or before the fifteenth day of July of each year, elect a secretary and a treasurer, * * *"

R. S. Mo. 1939, Section 10477, provides for the bonding of the treasurers of the six-director school districts as follows:

"The treasurer, before entering upon the discharge of his duties as such, shall enter into a bond to the state of Missouri, with two or more sureties, to be approved by the board, conditioned that he will render a faithful and just account of all money that may come into his hands as such treasurer, and otherwise perform the duties of his office according to law - said bond to be filed with the secretary of the board; and thereafter said treasurer shall be the custodian of all school moneys derived from taxation for school purposes in said district * * *"

In State ex rel. Cravens v. Thompson, 22 S.W. (2d) 196, the duties and bonding of the six-director school district treasurer are set out in full and substantially encompass the statutes set out above.

R. S. Mo. 1939, Section 10479, provides, in part, as follows:

"Whenever any state or county school money apportioned to any town, city or consolidated school district shall have been paid to any county or township treasurer, as now provided by law, the same shall, on the application of the treasurer of said town,

city or consolidated school district, be paid over to him by said county or township treasurer, * * *

R. S. Mo. 1939, Section 10482, provides, in part, 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; * * *"

As stated at the beginning, the school law of 1947, Section 10, provides that the directors of the new enlarged school districts shall be governed by the laws applicable to six-director school districts. The act creating the six-director school districts has been set out in part (Section 10466, R. S. Mo. 1939), as well as the certain of the laws governing such districts, including the appointment of a treasurer, provision for bond, and the section directing that school funds held by county or township treasurers shall be paid over to the treasurer of the consolidated school district, and that the county or township collectors shall pay over directly to the treasurer of the board of education all school moneys collected by him.

Laws of 1947, Volume II, Section 1, page 371, provides, in part:

"There is hereby created in each county of Missouri a county board of education. * * *"

Section 6, id., provides, in part:

"The county board of education * * * shall

"(1) Within six months after its organization, make or cause to be made and completed a comprehensive study of each school district of the county and prepare a plan of reorganization. * * *"

Section 10, id., provides, in part:

"If the proposal to form such enlarged district has received a majority of the votes cast on such proposition the county

board of education shall order an election in such enlarged district, * * * for the purposes of electing six directors in such enlarged district. * * * The directors above provided shall be governed by the laws applicable to six-director school districts."

Section 11, id., 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."

Since the new enlarged or reorganized districts are to be "governed by the laws applicable to six-director school districts," and inasmuch as the laws applicable to such six-director districts provide for the choosing of a treasurer under bond, and further provide that the county or township collectors are to turn school funds directly over to the school district treasurer and that the county treasurer shall turn over funds to the district treasurer, it is clear that the new enlarged

districts should choose a treasurer under bond who should take custody of and disburse all school funds belonging to his district. This position is further supported by Section 11, Laws of 1947, supra, particularly that section stating "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."

It is plain to us that this section contemplates that the treasurer of the reorganized district is to be the sole, lawful custodian of the school funds of his district, and in him alone is vested the power to disburse such funds.

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Conclusion.

It is therefore the conclusion of this office that:

1. The new enlarged or reorganized school districts regulated by the provisions of Section 11, Volume II, Laws of Missouri, 1947, should choose a treasurer under bond;
2. The funds of said school district should be in the custody of and subject to disbursement by the school district treasurer;
3. The county and township treasurers have no authority to hold or disburse funds of the reorganized school districts;
4. Any such funds now in the hands of county or township treasurers should be immediately placed under the exclusive control of the treasurer of the reorganized or enlarged school district.

Respectfully submitted,

H. JACKSON DANIEL
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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