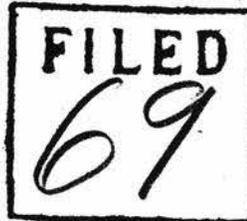


SCHOOLS: The tax books of a county should be set up by the county
TAXATION: clerk extending the school taxes in accordance with the
territory incorporated into each legally formed reorganized
or enlarged school district, and the former school district
numbers comprising said territory should be discontinued.

June 14, 1950

Mr. James L. Paul
Prosecuting Attorney
McDonald County
Pineville, Missouri



Dear Sir:

I.

This will acknowledge receipt of your request for an official opinion from this department. Your letter of May 19, 1950, is as follows:

"Please advise this office whether, under the new school consolidation act, if the tax books should be set up in accordance with the new districts as voted upon by the people of this County, in 1949, or whether the tax books should continue carrying them under the old school district numbers."

Your letter of May 25, 1950, furnishing additional information to us, is as follows:

"In reply to your letter of May 23rd, please be advised that a favorable vote was given upon the question of organization of a new reorganized school district in our County, and that a Board of Directors has been elected for such district and are now functioning."

II.

Since the reorganized school district in your county has received a favorable vote and the board of directors of said district are functioning as such, then a consideration of the 1931 School Law, as amended by Laws No. 1947, Vol. 2, pages 377, is in order.

Section 11 of said Laws No. 1947, pages 370-377, is as follows:

Mr. James L. Paul

"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 10460, 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."

Section 10450, R. S. No. 1939, provides as follows:

"The terms of office of all school officers of the various school districts comprising the territory incorporated in such enlarged school districts shall cease upon the adoption of the provisions hereof and the organization of the board of directors, and such officers shall deliver to the board of directors of the enlarged school district all 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 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 settle-

Mr. James L. Paul

ment therefor as provided by section 10480: Provided, that the directors of such enlarged district shall fully perform all existing contracts and legal obligations of the component districts."

The above and foregoing sections are exactly the same in all respects except for one word. Section 11, supra, uses the word "faithfully" in the last proviso of the section. Section 10450, supra, uses the word "fully" in the last proviso of said section. Section 10450, supra, was a part of the 1931 School Law and was not repealed by Laws Mo. 1947, supra. The 1947 Laws of Mo. Vol. 2, pages 370-377, did repeal the first eight sections of the 1931 School Law (Secs. 10442-10449, R. S. Mo. 1939).

The 1947 Act enacted seventeen new sections in lieu of the sections repealed. Section 11, quoted above, provides that the various school districts comprising the territory incorporated into the enlarged or reorganized school district shall cease upon the adoption of the plan of reorganization and the organization of the board of directors.

Section 10450, supra, cited above, provides that the terms of office of all school officers of the various school districts comprising the territory incorporated in such enlarged school district shall cease upon the adoption (of plan of reorganization) and the organization of the board of directors.

Section 10347, R. S. Mo. 1939, reenacted, Laws 1945, page 1629, provides as follows:

"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."

Mr. James L. Paul

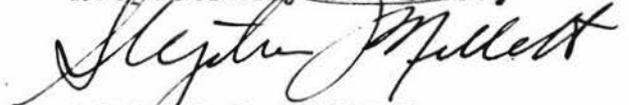
This section provides that the board of directors of the school district shall, on or before the 15th day of May of each year, make an estimate of the amount of funds necessary to sustain the schools in their district for the time required by law. If the reorganized school district was adopted by the people and the board of directors elected and organized before May 15th of any year then it would be the duty of the board of directors of such a reorganized, enlarged district to file the estimate required by said Section 10347, supra. The directors of the various school districts comprising the territory incorporated into said enlarged school district would have no authority to file such estimate according to the provisions of Section 10450, R.S. No. 1939, and Section 11, Laws No. 1947, pages 370-377, because all their duties and authorities cease on the adoption of the plan of reorganization and the organization of the board of directors of the enlarged school district.

The Supreme Court of Missouri on June 13, 1950, rendered a decision in a case entitled State of Missouri at the relation of reorganized school district No. 4 of Jackson County, Missouri, relator, vs. W. H. Holmes, State Auditor of Missouri, respondent, in which the constitutionality of the 1947 Act relating to the organization of enlarged school districts was upheld. Therefore, the 1947 Act relating to reorganized or enlarged school districts is valid and constitutional.

CONCLUSION

It is therefore the opinion of this department that the tax books of a county should be set up by the county clerk extending the school taxes in accordance with the territory incorporated into each legally formed reorganized or enlarged school district, and the former school district numbers comprising said territory should be discontinued.

Respectfully submitted;



STEPHEN J. MILLETT
Assistant Attorney General

APPROVED:



J. L. TAYLOR
Attorney General

SJM:mw