

SCHOOLS: Procedure for second plan of reorganization would be the same as used for the first plan; subsequent proposed plans of reorganization may include previously organized enlarged school districts.

July 20, 1956

*Opinion No 10, 1956  
Nov 15, 1956 to  
Paul Boone should  
be sent with this  
opinion when a  
copy of this  
opinion is  
sent out.*



Mr. Hubert Wheeler  
Commissioner of Education  
Department of Education  
Jefferson City, Missouri

Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"1. Is the county board of education directed to follow the same procedure used in the first plan when planning, proposing, and submitting to the voters a second plan of reorganization as provided in Section 12, S. B. 307?

"2. In proposing the second plan of reorganization as directed under Section 12 of S. B. No. 307, and proposing subsequent reorganization plans as conditions warrant as directed by Section 6, Item 3, of S. B. No. 307, does the county board of education have the authority to include one or more reorganized districts along with other non-reorganized districts when proposing a second plan for school district reorganization, or should such proposed plan include only the remaining districts that are not reorganized?"

You have presented two questions in your request, and we shall undertake to answer them in the order submitted.

As you know, Senate Bill No. 307, as contained in Laws of Missouri, 1947, Vol. II, page 370, et seq., is a recent enactment of the Legislature, and there have been no appellate court decisions construing sections of the act about which you inquire.

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Generally, the first five sections of Senate Bill No. 307 relate to the creation and organization of a county board of education in each county of the state.

Section 6, which sets out the duties of the county board of education, provides for the first steps to be taken toward reorganizing the school districts within the counties, and, in part, reads:

"The county board of education, as provided for in the preceding sections, 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. Such study shall include:

(a) The assessed tax valuation of each existing district and the differences in such valuation under the proposed reorganization plan;

(b) The size, geographical features and the boundaries of the proposed enlarged districts;

(c) The number of pupils attending school, average daily attendance, and the population of the proposed enlarged districts;

(d) The location and conditions of school buildings and their accessibility to the pupils;

(e) The location and condition of roads, highways and natural barriers within the county;

(f) The high school facilities of the county and recommendations for improvement of same;

(g) The conditions affecting the welfare of the teachers and pupils;

(h) Any other factors concerning adequate facilities for the pupils.

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(2) Upon completion of the comprehensive study, but not later than May 1, 1949, submit to the State Board of Education, a specific plan for the reorganization of the school districts of the county. Such plans shall be in writing and shall include such charts, maps and statistical information as are necessary to properly document the plan for the proposed reorganized districts."

Section 7 generally provides for the examination of plans of reorganization by the State Board of Education and the approval or disapproval of the plans by said board. Following the approval of a plan of reorganization by the State Board of Education, the act requires an election whereby said plan of reorganization is to be submitted to the voters for rejection or adoption of the proposed plan. Thus Section 8 of the act, in part, provides:

"Within sixty days after receipt of approval by the State Board of Education of the reorganization plan, the secretary of the county board of education shall call an election in each proposed enlarged school district that lies wholly within the county or has been designated by the State Board of Education as belonging to the county. \* \* \* All qualified voters resident in the proposed enlarged school district shall have the right to cast their ballots for or against the proposal. \* \* \* The judges and clerks of the election shall certify to the secretary of the county board of education the total votes for and the total votes against the proposed enlarged district. A majority affirmative vote of the total votes cast shall be required for adoption of the proposed enlarged district."

If the proposal to form an enlarged school district receives a majority of the votes cast on such proposal, provision is then made for the election of six directors in such enlarged district and the turning over to them the property, records, books and papers of the component school districts which comprise the territory incorporated within the enlarged district (Sections 10 and 11 of the act).

By citing, discussing and quoting the provisions of the afore-mentioned sections of Senate Bill No. 307, we have sought to present the statutory procedure for the formation, approval and submission of the first plan of reorganization from the time

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a comprehensive study of the school districts within the county is begun by the county board of education to the assumption of control of the new enlarged district by its duly elected board of directors.

In the event any proposed enlarged district is not accepted by the voters, this does not terminate future action toward reorganization of the school districts within the counties, for Section 12 of the act, in part, provides:

"In the event that any proposed enlarged district has not received the required majority affirmative vote, the school districts constituting the proposed new school district shall remain as they were prior to the election, but in all such cases the county board of education shall prepare another plan in the same manner as provided for the first plan and the second plan shall be submitted to a vote in like manner as the first, but not sooner than one year nor later than two years after the date of disapproval of the first plan. \* \* \*" (Emphasis ours.)

As we read the above section, and particularly the under-scored portion thereof, we construe it to clearly provide that in the planning, proposing and submitting to the voters a second plan of reorganization the same procedure applicable to the first plan, as hereinbefore set out, shall be followed. Consequently, your first question is answered in the affirmative.

Now let us consider the second question presented.

At the outset, it is our thought that the act does not contemplate the formation, submission and acceptance of only one plan of reorganization within the counties which shall be final and conclusive insofar as future reorganization is concerned, but rather it contemplates circumstances arising which will warrant new or subsequent reorganization plans being proposed, to be adopted if acceptable to the voters. It is so manifested in Section 6, subparagraph 3, of the act, which provides:

"Continue to study the school system of the county and proposed subsequent reorganization plans as conditions warrant."

We further perceive that the only limitation on the submission of subsequent plans of reorganization is one of time, for Section 12 of the act, in part, provides:

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" \* \* \* Any subsequent plan shall not be submitted sooner than one year following the date on which the last vote on reorganization was taken."

We further observe that Section 6 of the act, in providing for a study to be made by the county boards of education in the preparation of a plan of reorganization, be it the first or a subsequent plan, refers to "each school district of the county." We construe this to mean any and all school districts within the county, be they three-director common school districts or six-director city, town, consolidated or enlarged school districts.

In subparagraph 3, Section 6, of the act the Legislature, in providing for continuing study of "the school system of the county" and proposing subsequent reorganization plans, certainly intended that previously organized enlarged districts would be a part of the "school system of the county."

In Section 11 of the act the Legislature has prescribed the procedure to be followed by "any former six-director district" that is merged in any enlarged district. Inasmuch as reference is made in the statute to "any former six-director district," we believe that the term would include any previously formed enlarged district which is composed of six directors that might be merged in a subsequently organized enlarged district. Generally, an enlarged district having six directors would be considered a six-director district.

In other words, as we read the act we do not believe that the Legislature intended that an enlarged school district once formed and organized within a county would be no longer a subject of comprehensive study by the county board of education, and would not be subjected to continuing study as a part of the "school system of the county" with a view of proposing subsequent plans of reorganization.

It would therefore follow that in proposing a subsequent plan of reorganization the county board of education, if conditions warranted it, could include as territory in the subsequent proposed plan a previously organized enlarged district. An example where this might be desirable would be in the proposal of a subsequent and more extensive plan of reorganization with territory of the proposed enlarged district lying in more than one county.

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In interpreting the act as permitting a subsequent plan of reorganization to include a previously organized enlarged district, we have sought to ascertain and conform to the intent of the Legislature. Such is a rule of statutory construction so well known to the courts and so often applied that the citation of the authority is unnecessary.

CONCLUSION

It is therefore the opinion of this department that in the planning, proposing and submitting to the voters a second plan of reorganization the same procedure applicable to the first plan should be followed.

It is our further opinion that in proposing a subsequent plan of reorganization, as conditions warrant, the county board of education may include as territory within the subsequent proposed plan previously formed enlarged districts together with other types of school districts.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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