

TAX LEVY:
COUNTY/SUPERINTENDENT:
SCHOOL DISTRICTS:

A county superintendent of schools cannot be compelled to submit more than one budget estimate to school districts within his jurisdiction, but can amend the budget; that no such authority is vested in the county board of education.



April 7, 1954

Honorable B. M. Husted
Representative
Putnam County
RFD
Worthington, Missouri

Dear Sir:

You thus state your recent request for an official opinion:

"I would like very much to have your opinion in the following matter:

"Our County Superintendent of Schools made up his budgets on March the First as required by law for the school districts under his jurisdiction, listing in detail the estimated receipts and disbursements. He also showed the required school levies. After these required tax levies were sent to the County Clerk and the County tax books were made up, a high school board decided to increase the high school tuition charge to these districts.

"Is the County superintendent in this case compelled to change his budgets and require the rural districts to pay the increase? Although the teachers' fund of the high school district had an increase of Three Thousand Dollars in the surplus this increase will be used to build up this surplus.

"Will the rural districts which do not have sufficient funds to pay this increase be required to pay this amount next year?

"Does the County Board of Education have any jurisdiction in this matter?"

We note that Putnam is a county of the third class.

Honorable B. M. Husted

Your first question is: "Is the county superintendent in this case compelled to change his budget and require the rural districts to pay the increase?"

In regard to this matter, we direct attention to paragraph 1 of Section 167.200 RSMo 1949, which reads:

"1. For the information and guidance of the officers and qualified voters, in connection with the problem of school tax rates, the county superintendent of schools in each county of the third class shall, not later than the first day of March of each year, in cooperation with the clerk of the board of such district, prepare, or cause to be prepared for each school district under his supervision, a detailed budget of estimated receipts and disbursements, including the amount of receipts recommended as necessary from district taxes. Such budget shall list estimated receipts by funds and sources, and estimated disbursements by funds and purposes, in such detail as may be prescribed by law and by the state board of education; and shall have appended thereto a statement of the rate of levy per hundred dollars of assessed valuation required to raise each amount shown on the budget as coming from district taxes. The district clerk shall add a condensed copy of said budget to each required notice of the annual meeting. In the expenditures of said district during the ensuing year, no variation shall be allowed from the totals shown in the budget estimate except on written authorization of the county superintendent. At the end of each school year, and not later than July fifteenth of each year, the clerk of each such district shall prepare a detailed report in form as may be prescribed by the state board of education showing all expenditures of the preceding year from various funds and sources, and such county superintendent shall audit and examine the same; and if such report is in conformity with the budget, or any modifications or variations therefrom as authorized by such county superintendent, he shall certify his approval thereof to the state board of education. In the event that expenditures exceed budget estimates, or modifications thereof, in the various funds in which state funds are made available, the excess expenditures shall be deducted from the allocation from the state funds for the ensuing year."

Honorable B. M. Husted

The law (para. 1 of Section 167.200, supra) makes it the duty of the county superintendent to prepare and submit a budget estimate not later than March 1st of each year, and nothing in the law imposes upon him the duty to submit any other estimate.

It would seem that in the common interest of reaching a satisfactory conclusion upon the budget matter, that the superintendent should cooperate fully with the district in this matter, can and should, if circumstances appear to make it desirable, amend his first budget. However, there certainly is no means by which he could be compelled to do so.

Your second question is whether the rural districts which do not have sufficient funds to pay this increase can be required to pay this amount next year?

In regard to this matter, we are enclosing an opinion written on September 13, 1948, to Honorable Joe W. Collins, Prosecuting Attorney of Cedar County.

We believe that this second question is answered by that opinion.

Your final question is: "Does the county board of education have any jurisdiction in this matter?"

The duties and powers of the county board of education are set forth in Section 165.673 RSMo 1949. Paragraphs 1, 2, 3, 4, and 6 of that section impose upon the county board the duty of studying the school system in their county, with a view to its reorganization, and the making of recommendations for reorganization to the state board of education; cooperation in school matters with adjoining counties; advising with the county superintendent regarding school matters generally.

Paragraph 5 of the above section rules:

"Approve the budget prepared by the county superintendent of schools in cooperation with the clerks of the boards of the several districts and approve the audit, made by the county superintendent, of the expenditures report prepared by the district clerk and submitted for the approval of the state board of education."

We cannot see that the above-quoted paragraph of Section 165.673, supra, or any other statute or case, gives the county board of education any authority to act regarding an increased levy in any district within their county.

Honorable B. M. Husted

CONCLUSION

It is the opinion of this department that a county superintendent of schools cannot be compelled to submit more than one budget estimate to school districts within his jurisdiction; but can amend the budget; that no such authority is vested in the county board of education.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

HPW/ld