

SCHOOLS: When because of extension of city limits boundaries of city school district are extended, respective boards of education may adjust and apportion property and liabilities of districts prior to July 1.  
SCHOOL DISTRICTS:  
ELECTIONS: Qualified voters in area so annexed to city district may vote in city district at April election following decree or vote extending city limits.



March 22, 1956

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

Dear Sir:

This is in response to your request for opinion dated March 5, 1956, which reads, in part, as follows:

"I shall appreciate your advice and official opinion in answer to the following questions:

1. Are school district boundary lines which are affected by the extension of city limits changed at the same time as the decree or vote effecting such change of city limits and can boards of education now properly transact the business of apportionment of property and obligations and any new business relating to the new school year?

2. If for all intents and purposes the school district boundary lines are changed at the same time as the extension of the city limits would it be proper for the school patrons of affected area to vote in the receiving districts at the annual April school election in the transaction of new business?"

This problem arises out of the provisions of Section 165.263, RSMo 1949, regarding the organization of a town or city school district, and particularly that portion thereof which reads as follows:

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" \* \* \* and every extension that has heretofore been made, or that hereafter may be made, of the limits of any city, town or village that is now or may be hereafter organized under the laws of this state, shall have the effect to extend the limits of such town or city school district to the same extent, and such extension of the limits of any city or town school district shall take effect on the first day of July next following the extension of the limits of such city, town or village, \* \* \*"

In construing a statute, the primary objective is to determine the intention of the Legislature in enacting it into law. In arriving at this determination it is proper and often essential to consider all statutes relating to the same subject matter, i.e., those in pari materia. That principle was enunciated thus in State ex rel. Brokaw v. Board of Education of City of St. Louis, Mo. App., 171 SW2d 75, 79:

" \* \* \* The purpose and object of the interpretation of any statute is to reach the true intent and meaning of the lawmaking authority, - the General Assembly. It is a cardinal principle of interpretation that statutes in pari materia are to be treated as embodied in one section, and considered together in order to elucidate the legislative intent therein enacted, and this is true though they are found in different chapters of the revised statutes and under different headings. State ex rel. McCurdy v. Slover, 126 Mo. 652, 659, 29 S.W. 718; State ex rel. Case v. Wilson, 151 Mo. App. 723, 132 S.W. 625. \* \* \*"

Among the sections in the same chapter and relating to the same subject matter is Section 165.014, RSMo, Cum. Supp. 1955, enacted by the 68th General Assembly. That section makes provision for the adjustment and apportionment of school property between the districts involved when the limits of a city or town school district are extended by virtue of extension of the corporate limits of the city or town. It then provides that: "Such adjustment and apportionment shall be made as of the date of the decree or \* \* \* of the vote of the electors effecting such \* \* \* change of boundaries \* \* \*" (Emphasis ours.) It further provides

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that: "Such adjustment and apportionment of property and liability shall be made by the boards of school directors of the several districts concerned, before or during the first school year after such boundaries have been changed." (Emphasis ours.)

From this section we believe it clear that the boards of education can now properly transact the business of apportionment of property and obligations and that it is not necessary that they wait until after July 1 in order to perform this duty. This partially answers your first question and is helpful in arriving at the determination of the whole question.

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We are further aided by the case of State ex rel. Fleener v. Consolidated School Dist. No. 1, Mo. App., 238 SW 819, wherein the effect of Section 11262, RSMo 1919 (Sec. 165.290, RSMo 1949), was being considered. That section provided that when a consolidated district was organized, the original districts should continue until June 30 following the organization of such consolidated district. It was argued in the Fleener case that this being so, the consolidated district did not come into existence until July 1 following, so that a tax levy voted by the consolidated district at the April election in 1921 was void and of no effect. The precise question considered by the court was whether the consolidated district could function prior to June 30, 1921, or whether it was an entity without vitality from the date of its creation on October 22, 1920 until June 30, 1921, by reason of Section 11262, supra.

The court considered all the laws relating to consolidated districts and concluded that the consolidated district could function prior to June 30, 1921, at least insofar as was necessary in order for it to prepare for the coming school year. It held that the old districts continued to exist until June 30, which, incidentally, is the close of the school year (Sec. 163.020, RSMo 1949), for the sole purpose of winding up the business of the current school year.

Section 165.263, RSMo 1949, under consideration now, in providing for the formation of new city or town school districts, also contains the proviso that the new district, as created, shall become effective on the following July 1. We believe that, in the formation of a new city or town school district, the courts would give the same interpretation to this provision relating to July 1 as was given to Section 165.290, supra, in the Fleener case with respect to consolidated districts. In other words, it would hold that, in spite of the July 1 date, the new district could function prior to that date in order to prepare for the coming school year,

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that the old district or districts would continue until that time merely for the purpose of concluding the affairs of the old district for the current school year. As was said in the Fleener case: "Any other construction would result in utter confusion and irreparable injury."

Since the same effective date is referred to in the same section with relation to the change of boundaries because of the extension of the limits of the city or town, it is only reasonable to say that it has the same meaning and should receive the same application that it would with relation to the formation of a new district. Coupling Section 165.263, supra, in its entirety with the reasoning in the Fleener case and with the portions of Section 165.014 underscored supra, we believe it was the intention of the Legislature, in providing the effective date of July 1, that in the conduct of the schools the districts should continue as they are for the current year and in the transaction of the current year's business, but as far as preparation for the coming school year and the adjustment and apportionment of the property and obligations of the several districts, the change in boundaries should be considered in effect as of the date of the vote or decree extending the boundaries of the city or town.

What has been said above probably would suffice to answer your second question with regard to the right of those people in the affected areas to vote in the receiving districts at the annual April school election. However, the answer to that question both results from the determination of the basic problem and provides an aid in the construction of the statute which lies at its foundation.

Concerning the right of suffrage, the Supreme Court of Missouri said in *Bowers v. Smith*, 111 Mo. 45, 55:

"The suffrage is regarded with jealous solicitude by a free people, and should be so viewed by those intrusted with the mighty power of guarding and vindicating their sovereign rights. Such a construction of a law as would permit the disfranchisement of large bodies of voters, because of an error of a single official, should never be adopted where the language in question is fairly susceptible of any other. Wells v. Stanforth (1885), 16 Q. B. Div. 245.

"Or, as a very able judge once tersely said:  
'All statutes tending to limit the citizen

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in his exercise of this right [of suffrage] should be liberally construed in his favor.' Owens v. State ex rel. (1885), 64 Tex. 509.

"It is proper, and often necessary, to consider the effect and consequences of a proposed interpretation of a law to ascertain what is probably its true intent. State v. Hope (1889), 100 Mo. 361; 8 L.R.A. 608. \* \* \*

Being proper to do so, consider the result and consequences of placing a strict construction on Section 165.263, supra, depriving these persons of the right to vote in the city or town districts at the April election. If they could not vote in the city or town district, they certainly could vote in the old district to which they originally belonged. There they would be voting on issues in which they have no interest or concern, e.g., tax rates, bond issues, board members, etc., because they would not be in that district when the matters presented at the April election would become effective. On the other hand, they would be deprived of the right to express themselves on the questions which vitally affect them, i.e., on the affairs of the city or town district for the school year beginning July 1, 1956; they will be subject to the tax rate imposed in the city or town district in this April election; they will be obligated for any bond issues presented or approved at this or any subsequent election. We do not believe the Legislature intended to deprive these electors of the right to express themselves on these matters. Therefore, we believe a liberal construction of Section 165.263, supra, in favor of the right of suffrage, dictates that the people in the affected areas should be permitted to vote in the city or town district at the April election.

#### CONCLUSION

It is the opinion of this office that when school district boundary lines are changed by virtue of the extension of the limits of any city or town under Section 165.263, RSMo 1949, the respective boards of education may proceed immediately to adjust and apportion the property and liabilities of the respective districts under Section 165.014, RSMo, Cum. Supp. 1955, and need not wait until the following July 1.

It is the further opinion of this office that the qualified electors in the area thus annexed may vote in such city or town

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district at the April school election following the decree or vote so extending the limits of such city or town.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON  
Attorney General

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