

SCHOOLS:
SCHOOL DISTRICTS:
TAXES:

Where common school district is divided by reorganization plan after levy and assessment of taxes, tax moneys collected for current year should be paid to such common school district. Upon division of district by reorganization plan, county board of education has reasonable time after expiration of sixty days within which to annex remaining portion of divided district to adjoining district.



May 2, 1957

Honorable Don Chapman, Jr.
Prosecuting Attorney
Livingston County
Chillicothe, Missouri

Dear Mr. Chapman:

This is in response to your request dated January 30, 1957, which reads as follows:

"Recently in Livingston County there has been quite a movement to consolidate the school districts under the Chapter 165 Missouri Revised Statutes. In December, 1957, Chillicothe Reorganized District RII was formed in a special election.

"The new reorganized district, RII, is composed of many common school districts. In the South part of the county the boundary of the said RII passes through the Condron and Blue Mound common school districts, leaving a portion of the common school district without a place to go. This was done because the constituents in the South part of the school districts, Blue Mound and Condron, did not wish to become a part of Chillicothe RII. They want to be annexed to the Tina-Avalon School in Carroll County.

"Under 165.685 Missouri Revised Statutes, if the remaining part of any divided district fails to become a part of a

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reorganized district within sixty days and does not meet the requirements of Section 165.177, the part shall be annexed by the county board to an adjoining district. The Livingston School Board plans to comply with the desire of the people in the Condron and Blue Mound districts by sending them to the Tina-Avalon School. The sixty days under the said statute will lapse in a short time. Another added factor is that the Blue Mound district is operating an elementary school and have their budget all set up for this school year. If the South part of the Blue Mound District was annexed to Tina-Avalon, where would the tax money go from this portion annexed? Would the Blue Mound District, in reality Chillicothe RII, realize the tax proceeds or would the Tina-Avalon School get it?

"Another question arises as to the construction of 165.685 Missouri Revised Statutes which I have quoted in part, in this letter. Does the County Board of Education have to assign the remaining part of a common school district immediately after sixty days, or can this assignment be held in abeyance, say until the school year is complete? This would seem to alleviate the trouble I described in the previous paragraph."

As we understand your opinion request, the basic problem involved is the disposition of the taxes levied and assessed by the Blue Mound and Condron districts prior to the formation of Chillicothe Reorganized District R-II but not collected until after the formation of such reorganized district and the consequent division of the Blue Mound and Condron districts. We gather from your request that the remaining portions of the Blue Mound and Condron districts do not meet the requirements of Section 165.177, RSMo 1949, so that the provisions of Section 165.685, RSMo, Cum. Supp. 1955, are applicable to such districts. This does not mean, however, that such districts cease to exist

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until and unless they either vote to become a part of an adjoining district or after the lapse of sixty days are annexed by the county board to an adjoining district. Until one of these events occurs, the Blue Mound and Condron districts continue to exist.

In *Rice v. McClelland*, 58 Mo. 116, a school district was divided after taxes were levied and assessed but before they were collected and distributed. Contention was made that it would be inequitable to permit the original district to retain the taxes levied, assessed and collected on that portion which had been detached therefrom and formed into a new district. The court held, however, that the township board had no authority to apportion this tax money between the two districts as it had purported to do and affirmed the decision of the circuit court ordering the township collector to pay out and disburse this tax money on order of the board of directors of the original district.

We are of the opinion that the same principle would be applicable here and that the county treasurer should pay out and disburse the money collected from taxes levied and assessed by the Blue Mound and Condron districts upon order of the respective boards of directors of those districts, or their successors, if in the meanwhile those districts have become annexed to an adjoining district.

This tax money then becomes part of the funds of the Blue Mound and Condron districts which are to be taken into account in the adjustment and apportionment contemplated by Sections 165.014 and 165.015, RSMo, Cum. Supp. 1955. For your assistance in that regard, we are enclosing herewith copy of an opinion of this office rendered to Honorable Hubert Wheeler under date of March 28, 1957.

With regard to your second question, since no time limit is specified in Section 165.685, RSMo, Cum. Supp. 1955, within which after the expiration of sixty days the county board of education shall annex the remaining territory of a divided district to an adjoining district, we can only presume that the Legislature intended for this annexation to be done within a reasonable time, which might vary with the facts and circumstances of each individual case.

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CONCLUSION

It is the opinion of this office that the moneys collected from taxes levied and assessed in the Blue Mound and Condron school districts of Livingston County for the year 1956 should be paid out and disbursed upon order of the respective boards of directors of those districts, or their successors, if in the meanwhile those districts have been annexed to an adjoining district.

It is the further opinion of this office that the county board of education has a reasonable time after the expiration of sixty days within which to annex the remaining portions of the Blue Mound and Condron districts to an adjoining district.

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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