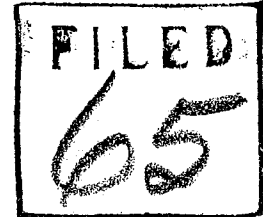


SCHOOLS: County board of education may revise re-
organization plan and submit such revised
SCHOOL DISTRICTS: plan to the voters after proposed plan
has been twice disapproved by the State
Board of Education.

July 17, 1959



Honorable William C. Myers, Jr.
Prosecuting Attorney
Jasper County
Joplin, Missouri

Dear Mr. Myers:

This is in response to your request for opinion dated May 8, 1959, which reads as follows:

"The county board of education has requested that this office obtain the opinion of your office on whether or not the county board of education has the authority to revise the proposed plan of reorganization after it has been rejected the second time by the state board of education."

Your question involves a construction of Section 165.677, RSMo, Cum. Supp. 1957, which reads as follows:

"Upon receipt of such reorganization plan, the state board of education shall examine such plan. The state board shall approve or disapprove such plan either in whole or in part. If the plan includes any proposed district with territory in more than one county, the board shall designate the county containing the greater portion of such proposed district based upon assessed valuation as the county to which such district shall belong. The secretary of the county board shall be notified of the state board's action within sixty days following receipt of the plan by the state board. If the state board finds that the

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reorganization plan is inadequate in whole or in part, it shall return the plan to the secretary of the county with a full statement indicating the parts thereof it has approved and its reasons for finding the plan or any part inadequate. The county board shall have sixty days to review the rejected plan or parts thereof, make alterations, amendments and revisions as may be deemed advisable and return the revised plan or part to the state board for its action. If the revised plan or part is disapproved by the state board, the county board shall propose and submit its own plan or part to the voters within sixty days following receipt of disapproval of the revised plan or part. No enlarged district may be proposed or submitted without the approval of the state board unless such proposed district shall have a minimum of two hundred pupils in average daily attendance for the preceding year or is comprised of at least one hundred square miles of area. Such plan or part shall be submitted to the qualified voters in the same manner as if the plan or part had been approved by the state board. Nothing in sections 165.657 to 165.707 shall be construed as preventing the establishment and operation of more than one school in any enlarged district."

Under the general scheme of reorganization of school districts the primary responsibility rests with the county board of education. The county board prepares the reorganization plans and the State Board either approves or disapproves with suggestions. There is no requirement that the county board follow the recommendations of the State Board, even in the submission of the revised plan. The apparent purpose in requiring submission of the reorganization plans to the State Board is not to vest the State Board with veto power but to give the county boards the benefit of the experience and recommendations of the State Board.

The above section states that after the plan of the county board has been disapproved in whole or in part and the revised

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plan also disapproved, the county board shall submit its own plan or part to the voters within sixty days following receipt of disapproval of the revised plan or part. There is no provision for a subsequent submission of that plan with revisions to the State Board. Conceivably, in disapproving the revised plan, the State Board might make suggestions for the improvement of the plan which would be both beneficial and acceptable to the county board.

It is proper, and often necessary, to consider the effect and consequence of a proposed interpretation of a law to ascertain what is probably its true intent. *Bowers v. Smith*, 111 Mo. 44, 45.

If it were held that the county board is powerless to revise its plan after rejection the second time by the State Board, part of the salutary effect of the statute would be lost because the county board would then be required to submit to the voters a plan which both it and the State Board considered undesirable.

If the purpose of that statute is as we have construed it, i.e., to give to the county boards of education the benefit of the suggestions and criticism of the State Board, its purpose can more fully be realized by saying that the county board does have the authority to revise its proposed plan of reorganization after it has been disapproved the second time by the State Board of Education and may submit such revised plan to the voters.

The only limitation placed upon the submission to the voters of the county board's own plan of reorganization, which plan has not been approved by the State Board, is that any proposed district must have a minimum of 200 pupils in average daily attendance for the preceding year or be comprised of 100 square miles of area.

CONCLUSION

It is the opinion of this office that a county board of education may revise its proposed plan of reorganization and submit its own plan to the voters after such plan has been disapproved twice by the State Board of Education.

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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