

SCHOOLS:
SCHOOL FUNDS:

A six-director school district in Missouri is not authorized to pledge net revenues received as tuition from persons attending a vocational school operated by the school district as security for the payment of the principal and interest on revenue bonds issued by the district pursuant to Section 164.231, RSMo Supp. 1967, as amended, to finance the cost of constructing a dormitory to be used to house persons attending such vocational school.

OPINION NO. 55

March 24, 1970

Honorable C. M. Bassman
State Representative
One hundred sixth District
9th and Gutenberg
Hermann, Missouri 65041



Dear Representative Bassman:

This opinion is issued in response to your request for an official ruling of this office on the following question:

"Does a six director School District in Missouri have authority to pledge the net revenues received as tuition from persons attending a vocational school operated by the School District as security for the payment of the principal and interest on revenue bonds issued by the District under Section 164.231 RSMo Supp. 1967, as amended, to finance the cost of constructing a dormitory to be used to house persons attending such vocational school?"

You give the following factual background in your opinion request:

"The Reorganized School District No. R-II of Osage County, Missouri is planning to

Honorable C. M. Bassman

construct a dormitory to house persons who attend the Vocational School which is operated by the District at Linn, Missouri. The District intends to finance the cost of constructing the dormitory by the issuance of revenue bonds pursuant to Section 164.231 RSMo. Supp. 1967, as amended by House Bill No. 90 passed during the regular session of the 75th General Assembly.

"A question has arisen as to whether the District has authority under House Bill No. 90, referred to above, to pledge monies received as tuition from persons attending the Vocational School, as well as the net revenue arising from the operation of the dormitory, as security for the payment of the principal of and interest on revenue bonds issued to finance the cost of constructing the dormitory."

Section 164.231, RSMo 1967 Supp., as amended by House Bill 90, Seventy-Fifth General Assembly (see Section 164.231 V.A.M.S. (1969-70 Supp.)) provides:

"For the purpose of providing funds for the acquisition, construction, erection, equipment and furnishing of dormitory or of school athletic stadiums or structures, and for providing a site therefor, including off-street parking space, and making from time to time enlargements or extensions thereof, the board of directors of any six-director school district may issue and sell revenue bonds in an amount not to exceed the estimated cost of the dormitory or project, including costs necessarily incidental thereto. No such bonds shall be issued and sold unless at the time of the issuance thereof the board of the school district issuing them shall pledge the net income and revenues of the dormitory or project to the payment of the bonds, both principal and interest, and covenant to fix, maintain and collect such reasonable rates, rentals and charges for admission of spectators to witness such games, contests and exhibitions, and returns and charges for concessions and broadcasting as in the judgment of such

Honorable C. M. Bassman

board of directors will provide revenues sufficient to pay the reasonable cost of operating and maintaining such dormitory or project and to provide and maintain an interest and sinking fund in an amount adequate promptly to pay the principal of and interest on such bonds. Nothing herein shall prevent the board from authorizing use of the dormitory or project and admittance thereto without charge at such time and for such occasions and to such extent as the board determines. In addition to pledging the net income and revenues as herein provided, the board in its discretion may mortgage, by mortgage or deed of trust, the real and personal property comprising the dormitory or project or portions thereof for the payment of the bonds, both principal and interest, and as additional security therefor may by the terms of the mortgage or deed of trust grant to the purchaser in case of foreclosure sale thereof the right and privilege to operate the dormitory or project, subject to the limitations and conditions set out in the mortgage or deed of trust. The revenue bonds are payable, both as to principal and interest, solely and only out of the net income and revenues arising from the operation of the dormitory or project for which they were issued, after providing for the costs of operation and maintenance as aforesaid, or from other funds made available to the school district from sources other than proceeds of taxation, or from proceeds of foreclosure sale of property mortgage or pledged as security therefor." (Emphasis supplied)

Do the net revenues received by the District as tuition qualify as ". . . other funds made available to the school district from sources other than proceeds of taxation. . .?" We believe they do not because all tuition received by the school district must go into the teachers' fund and cannot be transferred out of that fund. Therefore, tuition moneys would not be available to the school district to pay the principal and interest on revenue bonds.

Honorable C. M. Bassman

Section 165.011 RSMo Supp. 1967 states in part:

"1. The following funds are created for the accounting of all school moneys: Teachers' fund, incidental fund, free textbook fund, building fund, and debt service fund. The treasurer of the county, township or school district shall open an account for each fund specified in this section, and all moneys received from the county school fund, all moneys derived from taxation for teachers' wages, all tuition fees, and not less than eighty per cent of the state moneys received under subsections 1, 2 and 3 of section 163.031, RSMo, and all other moneys received from the state except as herein provided, shall be placed to the credit of the teachers' fund."

Therefore, all tuition fees received by the district must be placed in the teachers' fund. Although, we find statutory authority for transfer between certain other funds for certain purposes, (see for instance, paragraph 2, Section 165.011), we find no statutory authority for transferring moneys from the teachers' fund to either the incidental or debt service funds.

The funds of the school district belonging to the teachers' fund constitute a trust fund for the purposes provided by statute. Any use of the moneys in that fund for other purposes than to pay teachers' salaries or to pay tuition would subject the Board to liability. State to Use of Consolidated School Dist. No. 42 of Scott County v. Powell, 221 S.W.2d 508 (Mo. 1949) and Sections 165.011 and 165.021 RSMo 1959.

CONCLUSION

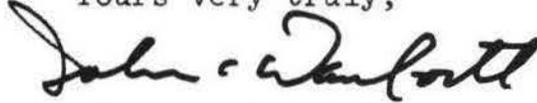
It is the opinion of this office that a six-director school district in Missouri is not authorized to pledge net revenues received as tuition from persons attending a vocational school operated by the school district as security for the payment of the principal and interest on revenue bonds issued by the district pursuant to

Honorable C. M. Bassman

Section 164.231, RSMo Supp. 1967, as amended, to finance the cost of constructing a dormitory to be used to house persons attending such vocational school.

The foregoing opinion, which I hereby approve, was prepared by my assistant, D. Brook Bartlett.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large, prominent initial "J".

JOHN C. DANFORTH
Attorney General