

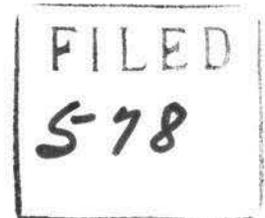
CONSTITUTIONAL LAW:  
JUNIOR COLLEGE DISTRICTS:

The buildings and facilities of junior college districts created pursuant to Section 178.770 through Section 178.890, RSMo 1969, are "state buildings and facilities" as that term is used in the perfected version of House Joint Resolution 1, Fourth Extraordinary Session, 75th General Assembly and, therefore, the junior college districts of Missouri would be eligible for funds from the Third State Building Fund to be created if the proposed constitutional amendment contained in House Joint Resolution 1 is approved by the voters.

OPINION NO. 578

December 16, 1970

Honorable E. J. Cantrell  
State Representative  
District No. 33  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Cantrell:

This is in response to your request for an opinion from this office with regard to the following inquiry:

"The House Appropriations Committee has had several requests for the inclusion of building projects on Junior College Campuses in the proposed \$250,000,000 bond issue. On behalf of my Committee, I would like an opinion from your office as to whether or not funds could be appropriated by the General Assembly for building aid to the Junior College Districts of Missouri."

We assume that the House Appropriations Committee is considering House Bill No. 2, Fourth Extraordinary Session, 75th General Assembly which contains a number of appropriations out of the state treasury chargeable to the Third State Building Fund. The Third State Building Fund will be created if House Joint Resolution 1, Fourth Extraordinary Session, 75th General Assembly is approved by the qualified voters of Missouri at the next general election in November, 1972, or at a special election called by the Governor. House Joint Resolution 1 is a proposed constitutional amendment to Article III of the Missouri Constitution adding Section 37(b) to Article III. Therefore, we assume your question to be whether House Joint Resolution 1, if approved by the voters of Missouri, would authorize appropriations to the junior college districts of Missouri out of the proceeds of the sale of the bonds authorized by that amendment.

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The perfected version of House Joint Resolution 1, Fourth Extraordinary Session, 75th General Assembly, reads in part as follows:

"The general assembly has the power to authorize the contracting of an indebtedness on behalf of the State of Missouri and to issue bonds and other evidences of indebtedness not exceeding in the aggregate the sum of two hundred fifty million dollars for the purpose of repairing, remodeling and rebuilding state buildings and facilities and for the construction of additional buildings and facilities where necessary for furnishing and equipping any such improvements . . . The proceeds of the sale of the bonds issued hereunder shall be credited to a fund to be known as the 'Third State Building Fund', which is hereby created, and shall be expended for the purposes for which the bonds are herein issued and for no other. . . ."

The proceeds from the sale of these bonds must be expended only for the purposes for which the bonds are issued. That purpose, as clearly stated in the first sentence of House Joint Resolution 1, is for:

" . . . repairing, remodeling and rebuilding state buildings and facilities and for the construction of additional buildings and facilities where necessary for furnishing and equipping any such improvements . . ."  
[emphasis supplied]

Therefore, are the buildings and facilities belonging to the junior college districts of Missouri "state" buildings and facilities?

Constitutional provisions, in general, are subject to the same rules of construction as other laws, due regard being given to its broader scope as a charter of popular government. The fundamental purpose in construing constitutional provisions is to ascertain and give effect to the intent of the framers of the provision and of the people who adopt the provision. State ex rel. Jones v. Atterbury, 300 S.W.2d 806, 810 (Mo. banc 1957); Rathjen v. Reorganized School District R-II of Shelby County, 365 Mo. 518, 284 S.W.2d 516, 524 (banc 1955). In construing the language of a constitution, the words used, unless technical, are to be understood in their usual and ordinary sense. Vanlandingham v. Reorganized School District No. R-IV of Livingston County, 243 S.W.2d 107, 109 (Mo. 1951).

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We believe that the word "state" as used in House Joint Resolution 1 is intended to restrict the use of the proceeds of the sale of the bonds to buildings and facilities owned by the state. Are buildings and facilities of junior college districts owned by the state?

The general rule applicable to elementary and high school districts is that the ownership of school property is in the local school board as trustee for the public. School property is public or state property and not the private property of the school district in which the property is located. 47 Am.Jur., Schools, Section 65 and 78 C.J.S., Schools and School Districts, Section 242.

In School Dist. of Oakland v. School Dist. of Joplin, 340 Mo. 779, 102 S.W.2d 909 (1937), the Missouri Supreme Court had before it an argument between two school districts as to the ownership of a school site and building. In reaching its decision the court determined that property of school districts in Missouri acquired with public funds is the property of the state.

"I. Section 1 of article 11 of the Constitution of Missouri (15 Mo.St. Ann. p. 810) provides: 'A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.' The General Assembly, by statutory enactment, has provided for the establishment of units, designated 'school districts,' their organization, and vested said districts with certain powers and duties (chapter 57, R.S. 1929, § 9194 et seq., Mo.St. Ann. § 9194 et seq., p. 7066 et seq.) to facilitate its effectual discharge of this constitutional mandate. The school districts are organized as separate legal entities. School Dist. No. 7 v. School Dist. of St. Joseph, 184 Mo. 140, 156, 82 S.W. 1082, 1086. They are public corporations, form an integral part of the state, and constitute that arm or instrumentality thereof discharging the constitutionally intrusted governmental function of imparting knowledge and intelligence to the youth of the state that the rights and liberties of the people be preserved. State ex inf. McKittrick v. Whittle, 333 Mo. 705, 709 (3), 63 S.W.(2d)

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100, 102 (4); City of Edina to Use v. School District, 305 Mo. 452, 461, 267 S.W. 112, 115 (1), 36 A.L.R. 1532; State ex rel. v. Gordon, 231 Mo. 547, 574, 133 S.W. 44, 51; State ex rel. Richart v. Stouffer (Mo.Sup.) 197 S.W. 248, 252 (4); State ex rel. v. Board of St. Louis Public Schools, 112 Mo. 213, 218, 20 S.W. 484, 485. They are supported by revenues derived from taxes collected within their respective territorial jurisdictions and the general revenues of the state collected from all parts of the state. These taxes and such property as they may be converted into occupy the legal status of public property and are not the private property of the school district by which they may be held or in which they may be located. State ex inf. Carnahan v. Jones, 266 Mo. 191, 198, 181 S.W. 50, 51 (2); State ex rel. Gordon, 261 Mo. 631, 641 (3), 170 S.W. 892, 894 (3-5); State ex rel. Bilby v. Brooks (Mo.Sup.) 249 S.W. 73, 75 (4); City of Edina to Use v. School District, supra; State ex rel. Richart v. Stouffer, supra. Consult 56 C.J. p. 435, § 408; p. 453, § 448; p. 469, § 476, note 22; 24 R.C.L. p. 581, § 30." Id. at 910

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". . . In Missouri the property of school districts acquired from public funds is the property of the state, not the private property of the school district in which it may be located, and the school district is a statutory trustee for the discharge of a governmental function entrusted to the state by our Constitution.

\* \* \*

". . . But, we have ruled the property involved is public property of the state, not the property of plaintiff or defendant. . . ." Id. at 915

Junior college districts created pursuant to Sections 178.770 through 178.890, RSMo 1969, possess generally the same corporate powers as common and six-director districts. See subparagraph 2 of Section 178.770. Therefore, we believe that the property of junior college districts purchased with public funds is also the property of the state.

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CONCLUSION

It is the opinion of this office that the buildings and facilities of junior college districts created pursuant to Section 178.770 through 178.890, RSMo 1969, are "state buildings and facilities" as that term is used in the perfected version of House Joint Resolution 1, Fourth Extraordinary Session, 75th General Assembly and, therefore, the junior college districts of Missouri would be eligible for funds from the Third State Building Fund to be created if the proposed constitutional amendment contained in House Joint Resolution 1 is approved by the voters.

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

Yours very truly,



JOHN C. DANFORTH  
Attorney General