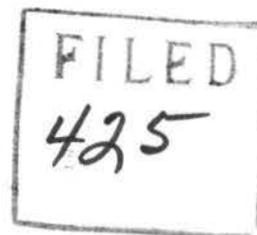


STATE PURCHASING AGENT: Junior College districts and
SCHOOLS: other school districts fall
SCHOOL DISTRICTS: under the provisions of House
Bill 228, Sections 67.330 through
67.390, RSMo 1969, passed by the Seventy-Fifth General Assembly.

OPINION NO. 425

December 14, 1971



Mr. Robert L. Norris
State Purchasing Agent
Post Office Box 539
Jefferson City, Missouri 65101

Dear Mr. Norris:

This opinion is in response to your opinion request. You ask if junior college districts and other school districts are "political subdivisions of the State of Missouri" within the context of House Bill 228, Sections 67.330 through 67.390, RSMo 1969, passed by the Seventy-Fifth General Assembly.

In State v. Whittle, 33 Mo. 705, 63 S.W.2d 100 (1933), the respondent, a school board member whose ouster was being sought because of the hiring of his first cousin as a teacher in a common school district in Miller County, contended that a school district was not "a political subdivision of the state" and therefore, not within the constitutional prohibition against nepotism. The court rejected respondent's contention stating, l.c. 102:

"The authorities are to the contrary. It is defined by a standard text as follows: 'A school district, or a district board of education or of school trustees, or other local school organization, is a subordinate agency, subdivision, or instrumentality of the state, performing the duties of the state in the conduct and maintenance of the public schools.' 56 C. J. 193."

Mr. Robert L. Norris

The court ordered the ouster of respondent. In Smith v. Consolidated School District No. 2, 408 S.W.2d 50 (Mo. Banc, 1966), the court reaffirmed that school districts are political subdivisions.

The phrase "political subdivision of the state" has not received uniform application by the courts of this state. In Kansas City v. Neal, 122 Mo. 232, 26 S.W. 695 (1894), the Supreme Court in discussing a provision out of the 1875 Constitution (Section 12, Article VI), similar to Section 3 of Article V of the Constitution of Missouri 1945, which confers Supreme Court jurisdiction, applied a restrictive interpretation to the phrase "political subdivision of the state". However, it appears that the court's interpretation turned on the fact that the phrase followed the word "county" which is not the case with the use of the phrase in House Bill 228.

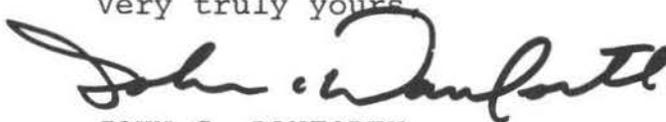
House Bill 228 by its terms seeks to "promote the economy and efficiency of operations of local government". It seems clear that in light of case law defining "political subdivision of the state" to include school districts and the objectives of House Bill 228 that the legislature intended to include junior college districts and other school districts under the provisions of said bill.

CONCLUSION

Therefore, it is the opinion of this office that junior college districts and other school districts fall under the provisions of House Bill 228, Sections 67.330 through 67.390, RSMo 1969, passed by the Seventy-Fifth General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Alfred C. Sikes.

Very truly yours,



JOHN C. DANFORTH
Attorney General