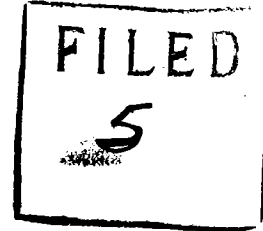


SCHOOL FUNDS, COUNTY & TOWNSHIP:
MAGISTRATE FUNDS:

When a small balance remains after reinvestment of township and county school funds, this balance to be carried on books until legislation provides for disposal. Magistrate fines distributed to shools of the county.

January 24, 1947



Mr. Clinton Bartley
Treasurer
Cllaway County
Fulton, Missouri

Dear Sir:

We have your letter of January 21, 1947, requesting an opinion from this department, which reads as follows:

"Under the new constitution I understand that all School Loans are called for payment and the money is to be reinvested in U.S. Government Bonds. However, in each case, Township and Capital funds there are small balances, less than \$100.00, the question is, what do I do with this money.

"I would also like to know if the fines collected by the Magistrate are to continue to go into the Capital School Fund (Principal) and invested in Bonds or into the School Loan Interest Fund and be apportioned to the School Districts."

In order to answer your first question we must observe the consitutional and statutory provisions relating to township and county school funds. Both Section 7 of Article IX of the Constitution of Missouri of 1945 and Senate Bill 162 of the 63rd General Assembly, which implements this section of the Constitution, require the liquidation and reinvestment of all real estate loans and investments belonging to township and county school funds. The first sentence of Section 7 of Article IX of the 1945 Constitution, is as follows:

Mr. Clinton Bartley

"All real estate, loans and investments now belonging to the various county and township school funds, except those invested as hereinafter provided, shall be liquidated without extension of time, and the proceeds thereof and the money on hand now belonging to said school funds of the several counties and the city of St. Louis, shall be reinvested in registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States, and sacredly preserved as a county school fund. * * *"

Senate Bill 162 (Section 10383) of the 63rd General Assembly, further provides that "all interest accruing from such reinvestment of the capital of township school funds and all other moneys lawfully coming into said funds" shall be distributed for the use of schools in the townships as provided by law. Similar provisions are made in both Section 7 of Article IX of the Constitution and in Senate Bill 162 (Section 10376) in regard to the interest accruing from county school funds after reinvestment. That part of Section 7 of Article IX of the Constitution, is as follows:

" * * * All interest accruing from investment of the county school fund, the clear proceeds of all penalties, forfeitures and fines collected hereafter for any breach of the penal laws of the State, and net proceeds from the sale of estrays, and all other moneys coming into said funds shall be distributed annually to the schools of the several counties according to law."

Also in Senate Bill 162 (Section 10376):

" * * * all interest accruing from such reinvestment of the county school fund, the clear proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state, the net proceeds from the sale of estrays, and all other money lawfully coming into said fund, shall hereafter be collected and distributed annually to the schools of the county as hereinafter provided in this article."

Mr. Clinton Bartley

Now we come to the question of the proper disposal of small balances remaining after liquidation and reinvestment of township and county school funds. It might seem that these small balances should be kept on hand until increased by other funds to a sum large enough to be invested in an authorized security. Such a procedure could not be effected however, because provision has been made in Senate Bill 162 for the distribution of interest and all other moneys coming into said funds. Therefore, there is no way these small balances can be built up or increased to a sum sufficient to invest in an authorized security. And since there is no provision for the distribution or other disposal of said balances, they must, as a matter of necessity, be carried on the books and records until further legislation provides a method for proper disposal.

The second question presented here, involving the proper disposal of fines collected by the magistrate court, is answered by Section 7 of Article IX of the Constitution and Senate Bill 162 (Section 10376), both hereinabove set out in part.

These provisions direct that all fines collected for any breach of the penal laws are to be distributed to the schools of the several counties, along with the interest accruing from the reinvestment of the county school funds, and other moneys coming into said funds, such distribution to be made according to law.

Therefore, fines collected by the magistrate court should be distributed to the schools of the several counties as provided by Senate Bill 162 (Section 10376) of the 63rd General Assembly.

CONCLUSION

Therefore, it is the opinion of this department that after township and county school funds are liquidated and reinvested under the provisions of Senate Bill 162 of the 63rd General Assembly, there remains a small balance which is not large enough to be reinvested in an authorized security, such balance should be carried on the books and records until further legislation provides a method for proper disposal. It is further the opinion of this department that fines collected by the magistrate court should be distributed annually to the schools of the county as provided by law.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. Taylor