

SCHOOLS: Bond given by Treasurer of a consolidated school district cannot be paid by school district.

June 14, 1937

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Honorable Donald B. Dawson
Prosecuting Attorney
Bates County
Butler, Missouri



Dear Sir:

This is to acknowledge your letter dated May 29, 1937 as follows:

"I would like an opinion from your office relative to a little problem which has arisen here in this county.

"The board of directors of a consolidated school district appointed one of their members treasurer of the District. In accordance with the provisions of the law applicable to his office he was required to give a bond in the sum of \$2,000.00. The cost of that bond, to be taken out with a Commercial Surety Co., was \$10.00. The board has previously agreed to pay the treasurer \$30.00 per year. Subsequently the board of directors decided to pay for the bond which the treasurer made. The question is can the board of directors legally pay for the bond of the treasurer appointed by them for the District, or must the treasurer furnish his own bond?

"I have looked through the Statutes relating to consolidated school districts and the cases pertaining to treasurers

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thereof but have been unable to find any Statute which would directly or indirectly prohibit a board of directors for paying for such a bond. I would like an opinion from your office setting out whether or not a board of directors of a consolidated district can act in such a manner."

We agree with you that there is not a statute which decides your question. However, we invite your attention to Sections 9329, Laws of Missouri, 1931, page 333; Section 9355, R. S. Mo. 1929; and Section 9360, R. S. Mo. 1929.

Section 9329, supra, relates to the organization of a School Board in a consolidated district, and reads in part as follows:

"Within four days after the annual meeting the board shall meet, * * * * and the board shall, on or before the fifteenth day of July of each year, elect a secretary and a treasurer, who shall enter upon their respective duties on the fifteenth day of July. * * * * No compensation shall be granted to either the secretary or the treasurer until his report and settlement shall have been made and filed or published as the law directs."

Section 9360, supra, relates to the compensation that may be paid to a treasurer of a consolidated school district and reads in part as follows:

"No member of any public school board of any city, town or village in this state having less than twenty-five thousand inhabitants

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shall hold any office or employment of profit from said board * * * * except the secretary and treasurer who may receive reasonable compensation for their services; Provided the compensation of the * * * * treasurer shall not exceed fifty dollars for any one year."

Section 9335, supra, requires the treasurer to give a bond before entering upon the duties of his office. Said Section reads in part as follows:

"The treasurer * * * * shall enter into a bond with the State of Missouri with two or more sureties to be approved by the board.* * * "

From the above it is seen that the School Board in a consolidated school district has a right to employ a treasurer and give him compensation at a reasonable amount (not to exceed \$50. per year) and that the treasurer must give a bond before entering upon the discharge of his duties. Nowhere does it provide that the bond shall be paid by the School Board or out of school funds. However, the powers of a Board of Directors of a school district are limited to those expressed in the statute. Consolidated School District No. 6 vs. Shawhan, 273 S. W. 182. Boards of Directors are trustees of the funds in their care and custody, and if they cause an illegal payment from school funds such would be personally liable. Consolidated School District vs. Shawhan, supra.

In connection with the payment of premiums on bonds, which bonds are required of state officers and employees, we herewith enclose copy of opinion rendered by this Department on November 5, 1935, to Honorable Roy H. Cherry, State Inspector of Oils of Missouri, and the reasoning employed in that opinion, as far as pertinent to your question, is herewith adopted.

Honorable Donald B. Dawson

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From the above and foregoing it is our opinion that a Board of Directors of a consolidated school district could not pay the premium of a surety bond given by the treasurer of the district.

Yours very truly,

James L. HornBostel
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

JLH/R