

SCHOOLS AND WARRANTS: School warrants may be issued up to the amount of the anticipated revenue for the year in which such warrant is issued and not in excess thereof.

September 6, 1938

Mr. George V. Farris
Attorney at Law
402 Miners Bank Bldg.,
Joplin, Missouri



Dear Sir:

This is in reply to yours of August 29, 1938, requesting an official opinion from this department, which is as follows:

"The Central City School District, Jasper County, Missouri, has a property valuation of over \$200,000.00 and no indebtedness whatever except a \$5,000.00 bond issue, which outstanding bond, however, doesn't enter into this matter.

"It is necessary for said school district to condemn about three acres of land for an athletic field, and the preliminary expenses of abstracting, surveying and attorney fees will run in the neighborhood of \$400.00. In this county there is hardly anyone who pays his taxes before the latter part of December, so that there is no money in the treasury before the 15th of January to pay the school indebtedness. The school district desires to issue warrants payable the 1st day of February 1939 for these expenses, and this would be well within the amount of revenue for the year; that is, these warrants together with all other expenses of maintaining the school would not exceed the amount of revenue for the fiscal year.

"This being a country district, the board obtains the advice of the County Treasurer that it cannot issue a school warrant payable at a future date. I cannot find anything in the statute which would prohibit issuing these warrants for this purpose, payable when the revenue comes in, and I believe your office has given an opinion to this effect. However, to set the matter at rest I should like your opinion in this matter as the Board desires to get this started before the school year commences."

School boards are limited in their powers in regard to spending school moneys by Section 12, Article X, of the Constitution of Missouri, which provides in part as follows:

"No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the consent of two-thirds of the voters thereof voting on such proposition, at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness, except that cities having a population of seventy-five thousand inhabitants or more may, with the assent of two-thirds of the voters thereof voting on such proposition at an election to be held for that purpose, incur an indebtedness not exceeding ten per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county

purposes previous to the incurring of such indebtedness; such proposition may be submitted at any election, general or special; * * * ."

Section 9233, R. S. Mo. 1929, provides in part as follows:

"* * * No county or township treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the first day of July and ending on the thirtieth day of June following; * * * ."

By this section the school year is fixed at July 1st to June 30th following, and it is for this period that the board of directors shall anticipate the revenues for the period it may issue warrants.

The office of a school director is created by statute, and he must look to the statute for his authority. In the case of Consolidated School District No. 6 v. Shawhan, 273 S. W. 1. c. 184, the court said:

"Plaintiff district is a corporation created by statute; its board of directors is what the statute makes it, having only such powers and functions as are expressly delegated to it."

Section 9333, R. S. Mo. 1929, provides in part as follows:

"The board of education of any town, city or consolidated school district shall, except as herein provided, perform the same duties and be subject to the same restrictions and liabilities as the boards of other school districts acting under the general school laws of the state: * * * ."

Section 9311, R. S. Mo. 1929, provides in part as follows:

"Upon the order of the board of directors, it shall be the duty of the district clerk to draw warrants on the county treasurer in favor of any party to whom the district has become legally indebted, either for services as teacher, for material purchased for the use of the school, or material or labor in the erection of a schoolhouse for said district--the said warrant to be paid out of any moneys in the appropriate funds in the hands of the said treasurer and belonging to the district. * * *"

Section 9312, R. S. Mo. 1929, provides in part as follows:

"The warrants thus drawn shall be in the following form, and shall be signed by the president of the board and countersigned by the district clerk:

TEACHERS' FUND.

§ _____ No. _____
Treasurer of _____ county, Missouri:
Pay to _____, or order, for services
as teacher in district No. _____,
dollars, out of any funds in your hands for
the payment of teachers' wages belonging to
said district.
Done by order of the board, this _____ day
of _____, 19____.
_____ president. _____ clerk.

* * * * *

No treasurer shall honor any warrant unless it be in the proper form and upon the appropriate fund; and each and every warrant shall be paid from its appropriate fund, and no partial payment shall be made upon any school warrant, nor shall any interest be paid upon any such warrant: * * * * *"

By this section it is evident that the Legislature has not intended that a board of directors would be authorized to issue a warrant postdated, nor that a school warrant could be protested.

In the case of Jacquemin & Shenker v. Andrews, 40 Mo. App. 1. c. 510, the court in discussing the issuance of school warrants when there was no money in the fund but where the money was expected to come in that year, the court said:

"We take it, that, while the board of directors were, by the implication of the statute, prohibited from drawing said warrant on the treasury, unless there was money on hand of that fund, out of which it could be paid, still this prohibition must not be construed so as to preclude the directors from anticipating this fund, if the amount of their warrant could subsequently be paid out of any money coming into the county treasury for that school year, from either or all of the three sources from which that fund, by law, is derived.

"The provisions of the school law must be construed liberally so as to give them a practical effect. It might have been that the collection of the amount of the estimate of the annual meeting, for carrying on the school for that year, was delayed for some reason or that the income into the teachers' fund from the state or county may have been delayed, by reason of the default or miscarriage of some officer intrusted by law with the collection or disbursement of this fund, and thus it may have been prevented from reaching the county treasury at the proper time. We cannot think a warrant drawn upon the county treasury, under such circumstances when there was no fund then on hand to pay it, would hardly be deemed illegal or unauthorized."

And in the case of Clark County v. Hackmann, 280 Mo. 686, the court in discussing what constituted a valid warrant, said, l. c. 696:

"The county authorities know from the assessed values and the tax rates just what revenue should come in for the year. They often issue warrants up to the very limit of the anticipated revenue, and these warrants we have held to be valid obligations of the county. This, on the theory that the warrants represent valid contracts made during the year. By valid contracts we mean contracts within the anticipated revenue of the year."

And at l. c. 698, the court further said:

"So, too, when this court has said (and rightfully so) that the purpose of Sections 11 and 12 of Article X of the Constitution was to place the business of the counties upon a cash basis, we did not mean that debts contracted within the anticipated revenues of the year were invalid because the collected revenues were insufficient to meet all of such debts. Nor did we mean by such expression that warrants issued for such debts were invalid because all of them could not be paid out of the revenue actually collected. Nor did we mean that each debt should be met with cash, but we did mean that during the fiscal year the cash would be available to meet the debt if the anticipated revenue was collected and rightfully disbursed."

In the case of State ex rel. v. Johnson, 162 Mo. l. c. 629, the court said:

"It was ruled in Book v. Earl, 87 Mo. 246, that 'the evident purpose of the framers of the Constitution and the people

who adopted it was to abolish in the administration of county and municipal government, the credit system, and establish the cash system by limiting the amount of tax which might be imposed by a county for county purposes, and limiting the expenditures in any given year to the amount of revenue which such tax would bring into the treasury for that year.' But it was at the same time said: 'Under this section the county court might anticipate the revenue collected, and to be collected, for any given year, and contract debts for ordinary current expenses, which would be binding on the county to the extent of the revenue provided for that year, but not in excess of it.'

"It was then anticipated that, though the county court might not issue warrants in excess of the levy for a year's current expenses, and that a creditor might rely upon the fact that his contract was within the amount of revenue levied and provided, and trust to the power of the State to enforce its taxes, still it might happen from some unforeseen cause enough of the estimated amount of revenue might not be collected to pay all the warrants drawn against it in anticipation. Under such circumstances it has never been ruled that such a creditor's warrant was absolutely void and extinguished by the non-payment in the year in which it was drawn. On the contrary, this court has often said in no uncertain terms that it was valid and payable out of any surplus revenue in the hands of the county treasurer that might arise in subsequent years."

CONCLUSION

From the foregoing, it is the opinion of this department that a board of directors of a consolidated school district has no authority to issue warrants payable at some future date, that is postdated warrants, but that such warrants must be issued in the form as provided by the statute and as hereinbefore set out.

We are further of the opinion that the fiscal year for a school district is from the 1st of July to the 30th of June next, and that although at the time of the issuance of a warrant there is not sufficient funds in the school treasury to pay it, yet if the indebtedness for which the warrant is issued is within the anticipated revenue for the school year, then such warrant is valid, and should be paid by the treasurer out of funds derived from the revenue of that year when it is collected.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

TWB:HR