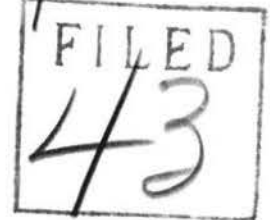


TOWNSHIP ORGANIZATION - SCHOOL:

Township Collector must pay moneys directly to Treasurer of Consolidated School District under Section 9340, R. S. Mo. 1929. Section 12321, R. S. Mo. 1929, discussed.

February 6, 1940

Honorable M. J. Huffman  
Prosecuting Attorney  
Wright County  
Hartville, Missouri



Dear Sir:

We are in receipt of your request for an opinion, under date of January 27, 1940, which reads as follows:

"The tax collector of Pleasant Valley Township in this County, which is under township organization, has asked for my opinion in regard to the disbursing of moneys collected by him, which are due Consolidated School District No. 4 at Mansfield which is in his township.

Inasmuch as Section 9340 of the Revised Statutes of Missouri for 1929 provides that the township collector should pay over to the Treasurer of the Board of Education all moneys received and collected by him, to which said Board is entitled at least once in every month, and Section 12321 of said Statutes provides that the township collector should pay over to the Township Treasurer all school moneys collected by him, I am referring the matter to your office for your opinion in this question.

The township collector of said Pleasant Valley Township has no choice in the matter, but the Consolidated School District is insisting that he turn the

money directly to its Treasurer and it seems to have been the custom and practice of this collector and other collectors before him to turn the money to the Township Treasurer, who then turned it to the Treasurer of the School District. As you can see, the Township Treasurer is drawing a per cent for disbursing the school money to the Treasurer of the Consolidated School District, and the Consolidated School District feels that this is a needless charge on the District.

All the parties concerned are very anxious that this matter be determined. I would appreciate it a very great deal if you will give me your opinion on this matter at your earliest possible convenience."

It will be noted that Article 4, Chapter 57, R. S. Mo. 1929, carries the following title, "Laws Applicable to City, Town and Consolidated Schools". Section 9340 reads as follows:

"The county or township collector shall pay over to the treasurer of said board of education all moneys received and collected by him to which said board is entitled at least once in every month; and upon such payment he shall take duplicate receipts from said treasurer, one of which he shall file with the secretary of said board of education, and the other shall be filed in his settlement with the county court."

From reading the aforesaid section, we find that the legislature designates specifically that the county or township collector shall pay over to the treasurer

of said Board of Education all moneys received and collected by him, which said Board is entitled to at least once each month. The section then goes further and provides that upon taking receipt from the treasurer (of the consolidated school district), the same shall be honored by the county court when he makes his settlements, etc. It is also noted that the legislature had in mind township organization when this section of the statutes was passed, and further, they provided a speedy method for consolidated school districts to receive the money which was coming to them.

Now, turning to Section 12321 of Chapter 86, R. S. No., 1929, it will be noted in Article 12 that the title is "Revenue, Assessment and Collection of". The above section reads as follows:

"To each assessment roll a warrant under the hand of the county clerk and seal of the court shall be annexed, commanding such collector to collect from the several persons named in the assessment roll the several sums mentioned in the last columns of such roll, opposite their respective names; the warrant shall direct the collector, out of the moneys collected, after deducting the compensation to which he may be lawfully entitled, to pay over to the county treasurer the state and county tax collected by him. He shall pay over to the township treasurer all school moneys collected by him, and all moneys collected for township expenses, and all moneys collected for road and bridge purposes."

It will be noted that this section provides that to each assessment roll a warrant under the hand of the clerk and seal of the county shall be annexed. \* \* \* The warrant shall direct the collector, out of the moneys collected, after deducting compensation to which he may be lawfully entitled, to pay over to the county treasurer

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the state and county tax collected by him. He shall pay to the township treasurer all school moneys collected by him. \* \* \*

It is our opinion that this section has to do, of course, with the collection of all moneys that are provided in the assessment roll that the collector shall collect in his township, but this is a much older section.

When Section 9340, R. S. Mo. 1929, was passed, the legislature, in our opinion, designated clearly in this section that the township collector, when he collected the taxes, as is provided in Section 12321, should forthwith immediately each month pay the money due the consolidated school district, if there be one in his township, to the treasurer of the consolidated district. It is our opinion that all other school moneys which are not due the consolidated school district should be, under Section 12321, turned over to the township treasurer. In other words, the effect of Section 12321 is that if there is a consolidated school district within the township, the collector pays only the remaining school moneys to the township treasurer, but under Section 9340 he shall pay the moneys going to the particular consolidated school district each month.

In conclusion, it is our opinion that Section 9340, R. S. Mo. 1929, specifically requires a township collector to pay over to the consolidated school district treasury any moneys coming into his hands for the consolidated school district each month, and Section 12321, R. S. Mo. 1929, does not take precedence over Section 9340. The township collector has no right to pay moneys due a consolidated school district over to the township treasury as he should do with other school moneys under Section 12321, R. S. Mo. 1929.

Respectfully submitted,

B. RICHARDS CREECH  
Assistant Attorney General

APPROVED:

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W. J. BURKE  
(Acting) Attorney General

BRC:VC