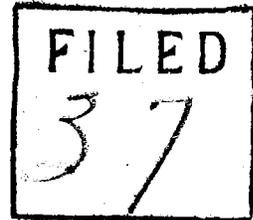


SCHOOLS: Under House Bill No. 770, county court issues warrant to pay clerk hire.



August 9, 1946

8/20

Honorable Willis T. Harbison  
Plattsburg, Missouri

Dear Sir:

We are in receipt of your inquiry in which you ask for a construction by this office of that part of House Committee Substitute for House Bill No. 770 relating to traveling expenses and clerical hiring, and particularly as to that part of said bill which states, "The county treasurer shall upon presentation of a proper bill by such clerical employee \* \* \* \* draw a warrant each month for payment of same out of moneys provided by the state for such purpose." You also state your "County Treasurer seems to think he does not have a right to draw a Warrant on himself."

In order to properly value the question raised, it is necessary to get at what was the legislative intent in the passage of this law and each part thereof. To do so, we must examine other related statutes which were on the statute books when this bill was enacted by the Legislature.

Section 13824, R.S. Mo. 1939, provides:

"The county court shall have power to audit, adjust and settle all accounts to which the county shall be a party; to order the payment out of the county treasury of any sum of money found due by the county on such accounts; \* \* \*"

Section 13825, R.S. Mo. 1939, is as follows:

"When a demand against a county is presented to the county court, the usual form of entry may be exemplified thus:

"A v. \_\_\_\_\_ county. The account of A B for the sum of \_\_\_\_\_ dollars being

presented and inquired into, it is found by the court that the sum of \_\_\_\_\_ dollars is due him from the county, payable out of (express the particular fund, as the case may require), and for which the clerk is ordered to issue a warrant.

"When the court shall ascertain any sum of money to be due from the county, they shall order their clerk to issue a warrant therefor in the following form:

"Treasurer of the county of \_\_\_\_\_, pay to \_\_\_\_\_ dollars out of any money in the treasury appropriated for (express the particular fund, as the case may require). Given at the courthouse, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. By order of the county court.

"Attest: C D, clerk. A B, president."

Section 13831, R.S. Mo. 1939, is as follows:

"When the county court shall ascertain any sum of money to be due from the county, as aforesaid, such court shall order its clerk to issue therefor a warrant, specifying in the body thereof on what account the debt was incurred for which the same was issued, and unless otherwise provided by law, in the following form:

"Treasurer of the county of \_\_\_\_\_: Pay to \_\_\_\_\_ dollars, out of any money in the treasury appropriated for ordinary county expenditures (or express the particular fund, as the case may require).

"Given at the courthouse, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by order of the county court.

"Attest: C D, clerk. A B, president."

Several sections of the statutes dealing with the duties of the county treasurer are referred to. Section 13798, R.S. No. 1939, speaking of his duties, says:

" \* \* \* \* He shall receive all moneys payable into the county treasury, and disburse the same on warrants drawn by order of the county court."

Section 13805, R.S. No. 1939, requires the county treasurer to keep account of all moneys received and disbursed and "regular abstracts of all warrants and scrips drawn on the treasury, and paid or received by him, and shall cancel the same by writing in ink 'paid' across the face thereof, when paid or received."

Sections 13806, 13807, 13808 and 13809, R.S. No. 1939, provide for the filing, cancellation, etc., of warrants.

Section 13810, R.S. No. 1939, provides as follows:

"Any county treasurer or county clerk violating the provisions of sections 13807 to 13809, inclusive, shall be adjudged guilty of a misdemeanor, and shall be fined a sum not less than five nor more than twenty dollars, or shall be imprisoned in the county jail for not less than thirty days for each offense."

Section 13811, R.S. No. 1939, provides the treasurer shall make duplicate receipts and keep his books open to the inspection of the county court.

Section 13813, R.S. No. 1939, requires the county treasurer to "furnish an account of the receipts and expenditures of the county" as often and in such manner as may be required by the county court.

The above-mentioned statutory provisions definitely show that the Legislature has set up a detailed plan of handling the county money and thrown valuable safeguards about both the public conduct in the handling of public funds and the preservation of the proof thereof.

The funds that under House Committee Substitute for House Bill No. 770 are paid by the state to be used for clerk hire are paid into the county treasury. They could not be paid out of the county treasury unless they were paid into the county treasury. They are not disbursed by the State Board of Education directly to the clerks. When so paid into the county treasury, they thereupon become part of the county money. The same rules that apply to protecting other county money, on reason apply to protecting those funds. To hold otherwise would compel an unreasonable construction of said House Bill and would force the conclusion that while the Legislature has placed the above set forth safeguards about part of the county money, that as to another part of said county money said safeguards shall not apply, and that, as to the latter, the county treasurer shall "draw a warrant" on himself for the payment of such funds. That course would be revolutionary and would discard the checks and balances so systematically required in handling all other county money and would be a temptation to lax and unjustified conduct.

In *State v. Hackmann*, 258 S.W. 1011, 302 Mo. 558 (1924), our Supreme Court, en banc, held that an appropriation for aid to the schools which stated Article VI meant Article IV, and said, i.c. 1011:

"The fundamental rule to be observed is to ascertain and give effect to the purpose of the Legislature. Under that rule the court may reject words and figures when necessary to give effect to the manifest intention of the framers of the statute. *State ex rel. v. Koeln*, 278 Mo. loc. cit. 41, 211 S.W. 31; *Lincoln University v. Hackmann* (Mo. Sup.) 243 S.W. 320; *State v. Finkelstein*, 269 Mo. 631, 191 S.W. 1002; *St. Louis v. Hurta*, 283 Mo. 77, 222 S.W. 430; *State v. Gmelich*, 208 Mo. 152, 106 S.W. 618; *State ex rel. v. McQuillin*, 246 Mo. loc. cit. 534, 152 S.W. 347; *State ex rel. v. Amick*, 247 Mo. loc. cit. 291, 152 S.W. 591; *Curtis v. Sexton*, 252 Mo. loc. cit. 245, 159 S.W. 512.

"In construing a statute, the legislative intent is to be determined from a general view of the whole act, with

reference to the subject-matter to which it applies, and the particular topic under which the language in question is found.' 36 Cyc. 1123."

It is a well recognized rule of law that the courts will, by construction, correct errors in statutes in the use of words where it appears that such correction is necessary to give proper meaning to the statute being considered. In 59 C. J., page 991, par. 591, the law is thus stated:

"More verbal inaccuracies, or errors in statutes in the use of words, \* \* will be corrected by the court, whenever necessary to carry out the intention of the legislature as gathered from the entire act. \* \* \* \*"

Viewing House Committee Substitute for House Bill No. 770 from its four corners and considering it as a whole, it is apparent that the Legislature intended to keep the proper safeguards about all the county money in each instance in said bill, except the matter here being considered. Said bill particularly sets forth the approved methods heretofore followed in getting the approval of the higher officials and making the record in the county court and having the bills audited and paid by warrants.

By construing the word "draw," as used in line 20, Section 2 of said bill, to mean "pay," we believe the legislative intent will be carried out. Said section, in terms, provides that said bill shall be a "proper" bill; that it must have been approved by the county superintendent; and that it must have been "audited" by the county court. It is a demand against the county, although it is payable out of that part of the county funds that are paid to the county by the State Board of Education.

Section 13324, supra, authorizes the county court to audit, adjust and settle and order payment of the same on all county bills. Section 13331, supra, provides that the county court "shall order its clerk to issue therefor a warrant" for payment of county bills after the county court has determined that the bill is a proper charge. Section 13793, supra, requires the county treasurer to receive and disburse all county moneys, and requires him to disburse the same on warrants drawn by order of the county court.

In order to hold that county money can be withdrawn in some other fashion than by county warrants from the county treasury, it would be necessary to hold that said House Committee Substitute for House Bill No. 770, by implication repealed to that extent this section of the statutes, and repeals by implication are not favored by the law. Said House Bill No. 770 must be interpreted in the light of and with reference to the other related statutes. The Legislature, of course, knew that the above set forth statutes were on the books and would be considered in arriving at the legislative intent and meaning of said bill.

Conclusion.

It is our opinion that the proper procedure in paying for clerical hire, under the provisions of Section 2 of House Committee Substitute for House Bill No. 770, is for the creditor clerk to make out a proper bill and get the county superintendent to endorse thereon his approval of the same and the date of said approval; present same to the county court who audit, settle and adjust it, as they do any other county bills and make the usual records thereof, order a warrant drawn by the county clerk on the county treasury therefor and deliver it to the creditor clerk who will present it to the county treasurer who thereupon pays said warrant and treats said canceled warrant the same way that other warrants are required by the statute to be treated with reference to bookkeeping, cancellation and custody.

Very truly yours,

DRAKE WATSON  
Assistant Attorney General

APPROVED:

---

J. E. TAYLOR  
Attorney General

DW:ml