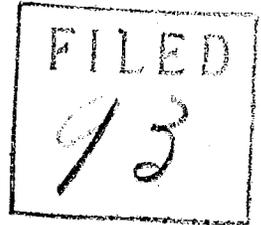


COUNTY SCHOOL FUNDS,) Liquidated capital of township and county
Liquidation of:) school funds to be handled and distributed
) as considered proper by board of school
) district.

February 7, 1947



Honorable Wayne T. Walker
Prosecuting Attorney
Greene County
Springfield, Missouri

Attention: Mr. Joseph N. Brown
Assistant Prosecuting Attorney

Dear Sir:

We hereby acknowledge receipt of your letter of February 1, 1947, requesting an opinion from this department, which reads as follows:

"Mrs. L. H. Coward, County Superintendent of Schools, has made inquiry as to whether or not in the event that the voters of a county approve a proposition for the liquidation of the school fund if such funds may be used for any purpose other than for the payment of teachers' salaries. This involves a construction of Section 7, Article 9, Constitution 1945 and Section 10366 as amended Laws 1943, page 893, Section 1.

"said section of the Constitution provides in part as follows:

"Any county or the city by a majority vote of the qualified electors voting thereon may elect to distribute annually to its schools the proceeds of the liquidated school fund, at the time and in the manner prescribed by law."

"Section 10366 provides in part as follows.

"Money received from any other source whatsoever shall be placed (by the board) to the credit of the fund or funds designated by the board."

The question submitted here apparently arose upon a reading of the following portion of section 10366, Mo. R. S. A. (Laws, 1943, p. 895):

"The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the 'Teachers' Fund,' * * *"

Section 10376.2, Mo. R. S. A., setting up the method and procedure by which the proposal to liquidate county and township school funds is to be presented to the voters, provides in part that:

"* * * If the proposal to distribute annually the capital of the liquidated county and township school funds shall receive a majority of the votes cast, the body having control of such county and township school funds shall proceed to thereafter distribute annually such liquidated funds to the school districts. * * *"

From this provision it is evident that the capital of township and county school funds when liquidated should be handled, generally speaking, in the same manner as all other school funds under Section 10366. At first it might be argued that said funds should be credited to the Teachers' Fund under that portion of Section 10366 set out above. However, on closer inspection of that statute it will be noticed that all moneys from the state, county and township funds shall be placed to the credit of the Teachers' Fund. It is then apparent from the wording of this provision that all moneys received from, or, in other words, all interest accrued from, said funds should be credited to the Teachers' Fund. But there is no indication that the capital of said funds should be handled in this manner. This position is further strengthened by the fact that neither at the time Section 10366 was enacted nor at the time of the amendment of 1943 was there any provision authorizing the capital of said funds to be liquidated and distributed according to Section 10366 or any other section of the statutes. Therefore it is clear that the capital of said funds when liquidated should not be governed by the above quoted portion of said Section 10366.

The provision which we believe controlling here is a portion of Section 10366 found immediately after the previously quoted portion of that section. It is as follows:

"* * * except * * * Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board. * * *"

This provision serves to take care of all moneys not previously provided for, and, since the funds in question here, after apportioned to the various school districts and placed in the custody of the treasurer, fall within that classification, they should be handled or distributed in the manner in which the school board of the particular district considers proper under the provisions of Section 10366.

Conclusion

Therefore, it is the opinion of this department that the capital of township and county school funds, which is liquidated as provided by law and apportioned to the various school districts, should be handled and distributed in the manner which the board of the particular school district considers proper under the provisions of Section 10366, Mo. R. S. A. (Laws of 1943, page 893).

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

DD:EG