

COUNTY BOARD OF EDUCATION: School board members and nonmembers both eligible to serve on county board of education!

COMMON SCHOOL DISTRICT: Board of directors cannot levy tax of sixty-five cents solely for building purposes without voter approval.

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Honorable H. L. C. Weier  
Prosecuting Attorney  
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Festus, Missouri

Dear Mr. Weier:

This is in reply to your letter of recent date presenting two questions for the consideration and opinion of this department. Your letter is as follows:

"The County Superintendent of Schools has requested that I obtain your opinion with regard to two questions. The first question is whether non-school board members are eligible to serve on the County Board of Education under Senate Bill 307, or do such members have to be School District Board members. The second question has to do with whether a common school board has a right to levy a tax of \$ .65 on the \$100 valuation for building purposes without the consent of the voters of the school district at the annual meeting."

In answer to your first question, your attention is directed to Section 1 of Senate Bill No. 307 of the 64th General Assembly, which provides for the creation and duties of a county board of education in each county. Section 1 first provides that the county superintendent of schools shall call a meeting of the members of the boards of education and boards of directors of the various school districts in the county who shall proceed to elect a county board of education consisting of six members, and then provides: "Each person so elected shall be a citizen of the United States and of the State of Missouri, a resident householder of the county, and shall be not less than twenty-four years of age." Further provision is then made concerning residence requirements.

The above-quoted provision sets out the only qualifications required of members of the county board of education. Nowhere in that provision, or in the act as a whole, do we find requirements as to further qualifications of such members. From this we must infer that the qualifications provided for are the only ones intended by the Legislature. The statute is plain and unambiguous, and under the familiar rules of statutory construction in such cases must be given effect as written.

Therefore, both members of the boards of education and boards of directors of the various school districts, and persons who are not members of such boards, are eligible for election to the county board of education, providing they possess the statutory qualifications.

Your second inquiry presents a question concerning the authority of the board of directors of a common school district to levy a tax of sixty-five cents on the hundred dollars assessed valuation for building purposes without voter approval.

Article X, Section 11(b) of the Constitution, limits the tax rate which may be imposed by a school district of the class under consideration to sixty-five cents on the hundred dollars assessed valuation. Section 10347, Laws of 1945, page 1629, implements, in part, that constitutional provision.

It will be noted that Section 10366, Laws of 1945, pages 893-896, allows school moneys received by a school district to be disbursed for the purposes for which they were levied, collected and received, and that certain funds are set up for the accounting of all school moneys, among which is a "Building Fund" for the furnishing, repair or erection of a schoolhouse in the district.

We believe it evident that the tax which is levied by a school district without voter approval, and within the constitutional limitation, is for all school district purposes including building purposes. Under no theory could an additional tax of sixty-five cents on the hundred dollars assessed valuation be levied without voter approval solely for building purposes within the school district, as such levy would be in direct contravention of the constitutional limitation.

If that portion of the moneys received by a school district, which is allotted for building purposes, is not sufficient for that purpose, a procedure is set out in the Constitution and statutes whereby the tax levied for district purposes

without voter approval can be increased for a period of four years.

Conclusion.

Therefore, it is the opinion of this department that both members of the boards of education and boards of directors of the various school districts in a county, and persons who are not members of such boards, are eligible for election to the county board of education.

It is further the opinion of this department that the board of directors of a common school district cannot levy without voter approval a tax of sixty-five cents on the hundred dollars assessed valuation solely for building purposes in addition to the tax levied for all school district purposes within the limitation imposed by the Constitution.

Respectfully submitted,

DAVID DONNELLY  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
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