

**Rural School District—Apportionment of Funds to Sub-Districts—Control of Funds by Board of Trustees.**

The Board of Trustees of a rural school district retain control of money after apportionment to the several sub-districts and while in the possession of the sub-districts, and may reapportion the funds where one district has received more and another less than is necessary to furnish reasonable school facilities for the school year in the particular district.

H. F. Miller, Esq.,  
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My dear Mr. Miller:

You have submitted to this office the following question:

"Is the money which has been' apportioned from the General Fund of the Rural School District to the several sub-districts, and which money is now in their possession, still under the control of the Board of Trustees of the Rural School District?"

Chouteau County by vote adopted what is known as the Rural School District. Under the provisions of this Act (Chap. 211, Session Laws of 1919), all territory included in the district "shall be a unit for the purpose of taxation and issuance of bonds and such other purposes as are hereinafter provided, and shall be divided into sub-divisions for the selection of trustees and consist of sub-districts for the purposes of local management, local control, and custody of property."

Section 5 of this Act provides:

"The board of trustees of every Rural School District shall have only the powers and shall perform only the duties enumerated in this act. The Board of trustees of each sub-district of the rural school district shall have all the powers and perform all the duties imposed upon trustees of school districts according to the provisions of Chapter 76 of the Session Laws of the Thirteenth Legislative Assembly and acts amendatory thereof and supplementary thereto, except, as modified by the terms of this Act."

This section evidently intends to limit the control of the sub-district to the Local Board, since they have all the powers of trustees in any ordinary district, except such as are expressly given to the Rural Board.

Section 5 further provides that the trustees of the sub-districts shall prepare a budget and certify it to the Board of Trustees of the Rural District, which shall contain an estimate of all the different items of expenditure for operation and maintenance to be incurred by such sub-districts for the ensuing school year. On the first Thursday in July, the Rural Board is required to examine the various budgets submitted by the Sub-district Boards and from such budgets to prepare a completed budget, which shall provide for the furnishing of reasonable educational facilities to every child in the Rural School District, and may include other reasonable items of expenditure not herein enumerated.

From the provisions of this section, it is apparent that the Board may change the estimates submitted by the Rural Boards by adding

thereto certain items, and it no doubt has the power to modify or change the budgets so as to equalize as nearly as possible the expenditures for certain purposes in the various sub-districts.

On the first Monday in August, the Rural Board certifies to the Board of County Commissioners the total amount of taxes to be raised, based on their budget. The County Commissioners are required to cause to be levied upon all the taxable property within the Rural District a sufficient tax levy to raise this amount. On the second Thursday in December, the Rural Board apportions the taxes collected to the various sub-districts, apportioned on the basis of the budget prepared by them.

Has the Rural Board any further control over those funds when once they have been distributed as required by the foregoing provisions? If, by control, is meant the power to dispose of any part of these funds by issuing warrants thereon, then it must be admitted that no such provision is contained in the Act, the Act not even providing from what funds the expenses and honorarium shall be paid. It is apparent that this Rural Board, being the first board in one of the first districts of this class in the State, and having no experience in estimating necessary expenditures in a district of this class, where they are required to provide reasonable educational facilities to every child in the district, including board and room (items not provided for in any other class of district), could not be expected, in making up their budget, to anticipate the amount of money that would be required in each district to carry it through the school year. Under the circumstances, it would be little short of phenomenal if all these sub-districts came out even at the end of the year, and each one had exactly enough to carry it through, even where they all adopted a uniform salary for teachers and other officers and expenses. Where some districts adopt a salary schedule 50 per cent higher than others, and run their district in an extravagant manner not anticipated, it is little wonder that some districts ran out of funds and were issuing warrants in the middle of the school year, while others had sufficient funds to carry them through according to the financial schedule on which they were conducting their district. The Board, not having precedent or experience to guide them in making up their completed budget, and not being possessed with supernatural power, and not anticipating abuses in current expenses by certain sub-boards, find that their first estimate did not come anywhere near doing what it was originally intended and expected it would, to wit, "furnish reasonable educational facilities to every child in the Rural School District." Can they now, by ordering a redistribution of the remaining funds to the credit of the various sub-districts, amend their original estimate so as to equalize the funds and allow them to be used for the benefit of every child in the district? It is contended that no such power is given in the Act, and this is true. Neither is there any provision in the Act that the funds, when distributed to the various sub-districts, shall be used for the exclusive benefit or for the exclusive expenditure

of a particular district; as, for instance, is provided in the case of a sinking fund for the payment of bonded indebtedness. If these funds are not distributed now, they will be distributed later, at least in effect, for those that are unexpended will remain to the credit of the sub-district, and in estimating their next year's budget, will be deducted from the amount distributed to them. These funds, it must be remembered, are raised from the whole district, and not from any particular sub-district, and whether distribution is made in the manner suggested, or whether each sub-district that is in debt merely certifies the amount thereof to the Rural Board, and the Rural Board taking these amounts, issues funding bonds under the provisions of Chapter 97 of the Laws of 1921, these bonds are certain to be bonds of the whole district, and taxes will have to be levied on the whole district to pay them. Therefore, the effect will be the same, except by redistributing the various amounts as proposed, all the money available that has been raised by assessment will be applied to pay outstanding warrants as required by Subdivision 1, Section 3 of Chapter 97, Laws of 1921. This subdivision provides:

"When there is not sufficient money to the credit of said School District or County High School, applicable to the payment of any such outstanding indebtedness."

Under this provision, the Legislature did not intend to give a district power to fund warrants until it had exhausted all moneys applicable to their payment. Money that will remain to a district's credit, after the close of school, ought to be applicable to pay warrants of any other district when issued for operation and maintenance, since the district is a unit for taxation purposes, and should not be required to raise more money than is needed to conduct schools in any one school year.

It might be contended that to reapportion the funds in the manner proposed would demoralize the spirit of economy among those boards conducting their affairs on the basis of reasonable expenditures by failing to keep in check others who, by extravagance, have exhausted their portion.

It is not contended that the School Board is required to reapportion funds simply because some districts have funds and others have not. No premium ought to be placed on a policy that will penalize a conservative district and reward an extravagant one. The Rural Board has no such power. Any adjustment of funds that is made at this time must be made on the basis of the amount of school facilities the original allotment would furnish in each district under reasonable administration applied to the conditions existing therein; such adjustment as the Board should have made in the first instance had it been able to predetermine that amount. Neither parsimony nor extravagance should be rewarded.

The provisions of Chapter 97, Laws of 1921, are not mandatory. The Board may fund warrants if it sees fit, or fund such portion of the warrants as it may choose. Only such warrants of sub-districts should be funded as would, when added to their original apportionment, furnish reasonable school facilities to each child in the sub-district. Boards conducting their district out of harmony with reasonable expenditures should be left to their own resources. They may have power to draw warrants, but have no power to levy taxes, at least so far as the Rural District is concerned. They may, under the provisions of Section 2002, Chapter 76, Laws of 1913, make a levy for any extraordinary purpose (Sec. 5 of Rural Act), and any moneys so raised belong exclusively to the district raising them, and cannot be redistributed.

I am, therefore, of the opinion that the Rural Board has power to reapportion funds among the various sub-districts, where one district has received more and another district has received less in the original apportionment—when such apportioned funds have been reasonably administered—than is necessary to furnish reasonable school facilities for the school year in the particular district.

Should it not be necessary to reapportion under the above rule, and in case there is a balance shown to the credit of some districts, the Rural Board should certify that the credit balance, as shown, is only such as is necessary to meet the reasonable requirements of the district in completing the school year.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.