

School Districts, Abandonment or Suspension Of.

A school district once created cannot be abandoned. The district will remain, even though there be no school children therein or necessity for a school, and the moneys belonging to it will be held to its credit by the county treasurer. The school district may, under such condition, be suspended to await the action of the people resident within the district. However, such a district may be added to one or more adjoining districts, or its boundaries enlarged, and the moneys thereof transferred to such newly created district, as provided by Sections 1752, 1753 and 1754 of the Political Code.

March 14, 1905.

Hon. W. E. Harmon, Superintendent of Public Instruction, Helena, Montana:

My Dear Sir:—I am in receipt of your favor of the 10th, asking opinion from this office upon the following questions:

1. Can a school district be abandoned, and if so what becomes of the moneys belonging to the district?
2. Could a district be inoperative for a time, owing to the lack of children, and become operative again after a year or two when the district will have children of school age?

Both of your questions involve an application of the same legal principles, and I shall, therefore, answer them both together.

When a school district is once created it cannot be abandoned, the boundaries changed nor the moneys belonging to it diverted, save and except as provided by Article III, Title III, Part III of the Political Code. In the event that there are not sufficient children in the school district to justify the maintenance of a school, the funds should be held by the county treasurer until such time as school is re-opened in the district or the boundaries of the district changed and the moneys transferred to the new district in accordance with such change of boundaries.

Under Section 1880, of the Political Code, it is made the duty of the county treasurer to receive and hold all money belonging to a school district as a special deposit and to keep a separate account of disbursements. The moneys cannot be expended except on express authority of law, and so long as school is not taught in the district, and the bounds of the district are not changed, clearly all moneys belonging to the district are by the treasurer held inviolate and the district stands unchanged waiting action by the people resident therein.

Under the provisions of Section 1752, of the Political Code, bound-

aries of a district can be changed or two or more districts united in one, upon following the directions therein contained; and by Sections 1753 and 1754 provision is made for the transfer of money belonging to the old school district territory to the new.

The sections to which I have referred you above seem very clear and should guide you in dealing with the questions you present.

Yours very truly,

ALBERT J. GALEN,

Attorney General.