660715.1

SCHOOLS: Districts – Reorganization.

Change of fourth class district to third class district subsequent to date of plan for reorganization of school districts does not remove such district from plan of reorganization requiring its joinder with other districts, including a third class district, submitted to the State committee before the date of change, nor deprive the residents thereof of voting on reorganization.

No. 4527 July 15, 1966.

Hon. Francis W. Beedon
State Representative
The Capitol
Lansing, Michigan

Act 289, P.A. 1964, being M.S.A. 1965 Cum. Supp. § 15.2299(1), et seq., provides for the reorganization of school districts. By recent letter you inform me that pursuant to this act the Muskegon intermediate district committee submitted a reorganization plan to the State committee which was received on December 30, 1965. (The State committee approved the plan on February 10, 1966).

I am informed that the submitted plan calls for the joinder of all but one local district of the intermediate district into one school district. One third class district was involved in the plan as submitted to the State committee. One of the fourth class districts involved, however, voted to become a third class district on February 15, 1966. This was accomplished pursuant to section 102 of the School Code of 1955, as amended (M.S.A. 1965 Cum. Supp. § 15.3102).

This has led you to ask the following question:

> "Does this act by the Reeths-Puffer School District remove that district from the proposed plan of reorganization and from the privilege of residents of that district voting on the question of reorganization?"

Your question undoubtedly has reference to section 4(a) of the act which provides that the State committee shall:

> "Within 12 months after the effective date of this act, develop policies, principles and procedures for a statewide school district reorganization program planned so that all areas may become part of a school district operating or designed to operate at least 12 grades. *In no case can an intermediate district committee plan be submitted under this act which would require the merger of 2 or more school districts of the third class or higher.* There shall be created no less than 500 school districts operating 12 grades." (emphasis supplied).

Applicable Principles

In construing a statute, legislative intention must be ascertained giving consideration and effect to the enactment as a whole. (*People v. Babcock*, 343 Mich. 671 (1955); *School District No. 9, Pittsfield Township, Wash-*

tenaw County v. Washtenaw County Board of Supervisors, 341 Mich. 388 (1954)). This must be accomplished in light of the statute's purpose. (*Mason County Civic Research Council v. Mason County,* 343 Mich. 313 (1955)).

Additionally, statutes will not be regarded as conflicting when by any reasonable construction they can be reconciled. (*People v. Buckley,* 302 Mich. 12 (1942)). A school district reorganization statute should be interpreted liberally. (*Rural Independent School District of Osprey v. County Board of Education of Monroe County,* 253 Iowa 265, 111 N.W. 2d 691 (1961)) since its purpose is better education through efficiency and economy. (*Wapello County Board of Education v. Jefferson County Board of Education,* 253 Iowa 1072, 115 N.W. 2d 212 (1962)).

It is obvious that changes in the status or boundaries of districts after an intermediate district committee plan is submitted to the State committee could completely disrupt the reorganization procedure. Additional planning compelling months of delay might be required.

To prevent such an event from frustrating the purpose of the Reorganization Act, the act provides in section 7 that:

> ". . . No property transfers shall be made after the approval of the intermediate district plan by the state committee until after the elections provided for in this section have been held . . ."

Section 9 requires that:

> ". . . the superintendent of public instruction, when requested to approve a consolidation, annexation or division of a district, shall give careful consideration to the progress of the implementation of the requirements of this act."

Such provisions are within the authority of the legislature because the State has plenary power to create, alter, reorganize or dissolve school districts despite contrary desires of existing districts or their inhabitants. (*Attorney General, ex rel. Kies v. Lowrey,* 131 Mich. 639 (1902), aff'd at 199 U.S. 233, 50 L. ed. 167, 26 S. Ct. 27 (1905); *School District of the City of Lansing v. State Board of Education,* 367 Mich. 591 (1962); *Imlay Township Primary School District No. 5 v. State Board of Education,* 359 Mich. 478 (1960)).

On the other hand, the action of the voters of Reeths-Puffer School District was not expressly prohibited and cannot be disregarded. They have expressed their collective desire to be a third class district and that district now has that status. Thus a statutory construction is required in the instant situation which gives effect to both their action and the action of the intermediate district committee under the Reorganization Act.

Statutory Construction

It is noted that the prohibition of section 4a of the Reorganization Act, supra, that prohibits submission of a plan which would require merger of two or more school districts of the third class or higher, applies to the

submission of an *intermediate district committee plan.* The first sentence of section 5 clearly indicates that the intermediate district committee is the committee for reorganization in each intermediate district. Section 6 provides for a State committee plan in certain instances but the prohibition does not mention or extend to State plans. If so, the prohibition would have stated *all* plans and would have undoubtedly been contained in section 7. It is therefore apparent that the prohibition applies only to plans submitted to the State committee and is not a general prohibition on every plan.

The word "submitted" is used in section 6 in connection with intermediate district committee plans with regard to both submission to the State committee and submission to the electors. The word "submit" in the prohibition of section 4, however, is located in a section providing for the duties of the State committee among which is the review of the intermediate district plans. It must, therefore, be concluded that the word "submit" in the prohibition means submission to the State committee and that the prohibition applies to that event and must be observed at that time.[1]

In the situation you present, when the Muskegon intermediate district committee plan was submitted to the State committee, it did not require the merger of two or more school districts of the third class or higher. It therefore satisfied the act and did not violate the prohibition. The prohibition extends no further. One of the districts changing to a third class district *after* date of submission to the State committee, thus requiring the merger of two districts of the third class if the plan is approved by the electors, does not remove that district from the proposed plan of reorganization nor does it deprive the residents thereof of the opportunity of voting on the question of reorganization.

Jurisdiction to approve the plan vested in the State committee by the submission of a proper plan not in violation of the prohibition. Change in status of the district after time of submission to the State committee is immaterial. This is not unlike the circumstances in *Garden City School District v. Labor Mediation Board,* 358 Mich. 258 (1959), where jurisdiction vested in a board through filing of a petition with the requisite number of signatures. Subsequent withdrawal of signatures (absent statutory authority) was ineffective to divest the board of authority to act.

This construction gives full effect to both statutes (section 102 of the School Code and the Reorganization Act). The Reeths-Puffer School District is now a third class district and remains such until a plan of reorganization is approved by the electors. The proposed plan submitted to and approved by the State committee can be submitted to the electors in its present form and the laudable purposes of reorganization are not frustrated.

[1] Even if the prohibition continued after submission of the plan and approval by the State committee, it would not necessarily follow that the Reeths-Puffer District would have to be excluded. The other third class district could be the one eliminated from the plan.

The answer to your question is therefore 'No.' It is my opinion that the Reeths-Puffer School District is not removed from the proposed plan and the residents of that district will not be denied the privilege of voting on the question of reorganization.

FRANK J. KELLEY,
Attorney General.

660725.2

COUNTY: Board of supervisors – maximum compensation for committeee meetings.

Members other than the chairman of the board of supervisors of a county having a population of 390,000 or less are limited to a total of 60 compensable days of authorized committee work on days upon which the board of supervisors is not in session during a calendar year.

No. 4541 July 25, 1966.

Mr. John T. Hammond
Prosecuting Attorney
Berrien County
816 Ship Street
St. Joseph, Michigan 49085

You have requested upon behalf of the chairman of the board of supervisors of Berrien County my opinion as to the limitations upon the number of days for which members of the board may be paid per diem compensation for attending committee meetings on days upon which the board is not in session.

Provision for payment of per diem compensation to members of the board of supervisors is made by Section 30 of Act 156, P.A. 1851, as last amended by Act 366, P.A. 1965; M.S.A. 1965 Cum. Supp. § 5.353:

> "Sec. 30. (1) Every member of such board of supervisors shall be allowed compensation and mileage as follows:
>
> "(a) The existing rate of compensation per day when this section, as amended, becomes effective shall remain as the rate of compensation until a new rate of compensation shall be established by resolution adopted by the affirmative vote of 2/3 of the members of the board. In counties now or hereafter having a population of not more than 40,000, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 31 days in any calendar year; in counties now or hereafter having more than 40,000 population and not more than 240,000 population, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 51 days in any calendar year; and in counties now or hereafter having a population of more than 240,000, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 61 days in any calendar year.