

4646

SCHOOL DISTRICT—LOCAL—TERRITORY JOINED TO CITY SCHOOL DISTRICT—RATE OF TAXES LEVIED BY TAXING AUTHORITY OF CITY SCHOOL DISTRICT—SHOULD BE UNIFORMLY APPLIED TO ENTIRE ENLARGED DISTRICT—COUNTY AUDITOR AUTHORIZED AND REQUIRED TO PLACE LEVY ON TAX DUPLICATE FOR ENTIRE DISTRICT—SECTIONS 3311.29, 5705.34 R. C.

SYLLABUS:

Where the territory of a local school district has been joined to a city school district by procedure set forth in Section 3311.29, Revised Code, the rate of taxes as levied by the taxing authority of such city school district pursuant to Section 5705.34, Revised Code, should be uniformly applied to the entire district as enlarged, and when so levied the county auditor is authorized and required to place such levy on the tax duplicate for the entire district.

Columbus, Ohio, December 16, 1954

Hon. John S. Moorehead, Prosecuting Attorney
Guernsey County, Cambridge, Ohio

Dear Sir :

I have before me your communication in which you state that a local school district in your county, which had no schools, was dissolved pursuant to the provisions of Section 3311.29 of the Revised Code, and its territory transferred by vote of the electors residing in such district, to the Cambridge City School District. In view of that situation, you inquire whether the county auditor will be justified in levying taxes for the December 1954 collection, and thereafter, upon the transferred territory at the same millage inside and outside, and the same millage to pay bonded indebtedness as had been budgeted for the Cambridge City School District.

It appears to me that my Opinion No. 3409, issued January 18, 1954, to which you refer, would be applicable to the question you present. The syllabus of that opinion was as follows :

“Where a transfer of territory from one school district to another has been accomplished as of September 9, 1953, under the provisions of Section 4831-13, General Code, and where, subsequent to such date, the county auditor has entered the property located in such territory on the tax list and duplicate pertinent to the district to which such territory has been transferred, the proceeds of tax levies on such property thereafter collected should be paid to the district within which such territory has been included; and such proceeds do not, as of such date, constitute a part of the ‘funds’ of either district and are not, therefore, subject to division between the two districts concerned under the provisions of such section. The circumstance that such proceeds will thus be paid may be accorded such weight as the county board of education may deem proper in arriving at its determination of an equitable distribution of such funds and indebtedness of the two districts as are properly the subject of such division.”

It must be observed that the transfer of territory involved in the situation covered by that opinion, had been had pursuant to Section 4831-18, General Code, now Section 3311.23, Revised Code, which authorizes the county board of education to order the transfer, and made such transfer subject to acceptance by the board of the city district. That section further

provides for an equitable division of the funds and indebtedness between the districts involved, such division to be made by the county board of education ordering the transfer.

Your proceeding was had under a new statute, Section 3311.29 Revised Code. The pertinent portion of that Section reads as follows:

“No school district shall be created in this state which does not maintain public schools within such district, and any such existing school district shall be dissolved and its territory joined with another school district or districts selected and approved by vote of the district so dissolved.”

It will be noted that this section does not make the consummation of the transfer of territory dependent upon the consent of the board of the city district to which the transfer is made. Nor does it authorize the county board or any other authority to make an allocation of the funds and indebtedness of the districts involved. However, since you state that the entire local district has been added to the city district, I do not regard the absence of such provision as having any bearing on your problem.

In my opinion No. 4645 issued December 16, 1954, I dealt with a similar situation and held as indicated by the syllabus:

“1. Where, pursuant to the provisions of Section 3311.29, Revised Code, a majority of the electors in a district having no schools, have voted in favor of joining the territory of such district to an adjoining city school district, such favorable vote is the final act in dissolving such district and transferring its territory to the city district, without the consent of the board of education of such city district.

“2. When pursuant to the provisions of Section 3311.29, Revised Code, the territory of a dissolved school district has been joined to the territory of a city school district, such city district succeeds to all the property and rights of such dissolved district, and is entitled to receive from the county treasurer the proceeds of all current taxes levied on the property in such dissolved district.”

In the case there presented, as in your case, the entire local district was joined to a city district and therefore I had no difficulty in arriving at the conclusion that all the property and all the amounts collectible from taxes levied or to be levied on the transferred territory would pass to the city district to which it was joined.

From the time when the electors had given their approval to this transfer, the dissolved district ceased to exist and its territory became an integral part of the city district, which succeeded to all of the property and rights and became responsible for all of the obligations of the district so transferred. The responsibility for the maintenance and operation of this added territory was merged in the responsibility for the operation and maintenance of the original city district, and it appears to me to follow that the taxes necessary not only for current operation but also for the payment of any and all indebtedness of the city district as it now exists, would be reflected in the taxes to be levied upon the entire district as reformed by this addition, and therefore such taxes should be at a uniform rate throughout the district.

Accordingly, in specific answer to your question it is my opinion that where the territory of a local school district has been joined to a city school district by procedure set forth in Section 3311.29, Revised Code, the rate of taxes as levied by the taxing authority of such city school district pursuant to Section 5705.34, Revised Code should be uniformly applied to the entire district as enlarged, and when so levied the county auditor is authorized and required to place such levy on the tax duplicate for the entire district.

Respectfully,

C. WILLIAM O'NEILL

Attorney General