

SCHOOL BONDS:
BOARD OF REGENTS:
BOARD OF TRUSTEES:
JUNIOR COLLEGES:
SENIOR COLLEGES:

Under the current statutes, there have been two independent boards created to govern the Jasper County Junior College and if organized, the Missouri Southern State College at Joplin, Mo. Each Board has defined statutory duties. The Board of Trustees is the proper agency to call an election; and where approved by popular vote, to issue bonds, to sell the bonds as obligations of the Junior College District and to levy taxes pay the principal and interest thereon.

February 25, 1966

OPINION NO. 139

Mr. Herbert Van Fleet
Counsel, Board of Regents
Jasper County Junior College District
c/o Seiler, Blanchards & Van Fleet
Fifth and Pearl
Joplin, Missouri



Dear Mr. Van Fleet:

This opinion is in response to your inquiry whether it is the Board of Regents or the Board of Trustees of the Jasper County Junior College District which has the power to and should now issue the bonds authorized by the voters of the Junior College District on May 7, 1965, for the Jasper County Junior College program.

We assume that the Junior College District was organized pursuant to Sections 1 through 12 of the Laws, 1961, page 357 (S.C.S.S.B. 7) as amended and now found codified as Sections 178.770 through 178.890, RSMo Cum. Supp. 1965.

The bond proposal submitted to the voters on May 7, 1965, provided that the funds were to be used in summary to equip, to repair and/or build facilities for the Jasper County Junior College according to the transcript on the Jasper County Junior College District bond issue which you furnished this office.

The pertinent statutes relating to the Missouri Southern State College as set out in the RSMo Cum. Supp 1965, are as follows:

"174.230. 1. Other provisions of law notwithstanding, if the facilities of the present Jasper County junior college districts are made available, there shall be established in Jasper County, Missouri, a state college, which shall make available those third and fourth year college level courses that lead to a baccalaureate degree.

2. This state college shall in the year 1967, or at such a time as the present Jasper County junior college district has acquired a campus for a third and fourth year college which meets the requirements established by the board of curators of Missouri University and its enrollment trends constitute sufficient justification for the operation of a four year college in the opinion of the board, whichever occurs later, become an independent two year state senior college, to be known as the 'Missouri Southern State College'. Its district shall be coterminous with that of the Jasper county junior college district."

"174.240. 1. The governor shall appoint, prior to January 1, 1966, by and with the advice and consent of the senate, a five member board of regents which shall be responsible for the administration of the Missouri southern state college and the Jasper county junior college district, including those powers and duties of the board of trustees of the junior college district under the provisions of section 178.860, RSMo. The board of regents shall consist of five members appointed by the governor for terms of five years except that of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Not more than three members shall be associated with any one political party and all of the members shall be residents of the college district."

(Emphasis added)

For ease in reading, we insert Section 178.860, RSMo Cum. Supp. 1965, relating to Junior College Districts:

"The board of trustees shall appoint the employees of the junior college, define and assign their powers and duties and fix their compensation. All certified personnel shall be members of the public school retirement system of Missouri under provisions of section 169.010, RSMo."

Subsection 2 of Section 174.240 (supra) provides:

"2. The state shall provide the funds necessary to provide the staff for and operation of the state senior college. The board of trustees of the junior college district shall levy a tax within the district, as provided in sections 178.770 to 178.890, RSMo, which, together with state aid provided for junior colleges and funds available from any other sources, will be sufficient to pay the costs of the operation of the junior college and the costs of any capital improvements for both the junior and senior college." (Emphasis added)

Section 178.770:

"1. In any public school district, or in any two or more contiguous public school districts in this state, whether in the same county or not, the voters resident therein may organize a junior college district in the manner hereinafter provided. Prior to the organization of a district under sections 178.770 to 178.890, the state board of education shall establish standards for the organization of the districts which shall include among other things:

* * * * *

2. When a district is organized, it shall be a body corporate and a subdivision of the state of Missouri and shall be known as 'The Junior College District of _____, Missouri' and, in that name, may sue and be sued, levy and collect taxes within the limitations of sections 178.770 to 178.890, issue bonds and possess the same corporate powers as common and six-director

school districts in this state, other than urban districts, except as herein otherwise provided. (L. 1963 p. 200 §13-77) Effective 7-1-65 (Source: L. 1961 p. 457 §1)."

Inasmuch as the above laws (Sections 174.230 - 174.240, RSMo Cum. Supp. 1965 relating to Missouri Southern State College) were enacted during the last session of the legislature, we have not been able to find any judicial decisions on this point. We must construe these statutes and seek to harmonize these provisions so as to arrive at the intent of the legislature. (Julian v. Mayor, et al, 391 SW 2d 864; May Department Stores v. Weinstein, 395 SW 2d 525). In construing these statutes, the words of the statute should be given their plain and ordinary meaning to promote the object and purpose of the statute (Julian v. Mayor, et al; May Department Stores v. Weinstein (supra). Even though the statutes may be found in different chapters and enacted at different times, these statutes do relate to the same subject matter and must be construed together (State ex rel Smithco Transport Company v. Public Service Commission, 316 SW 2d 6, l.c. 13).

With these general principles in mind, we believe under Section 174.240, supra, the statute clearly contemplates two independent boards for the Jasper County Junior College District with each having clearly defined areas of jurisdiction to govern the existing Junior College.

The underscored portions of Section 174.240, supra, clearly spells out the existence of two independent boards, (The Board of Regents and The Board of Trustees). The administration of the present Junior College (under Subsection 1 of Section 174.240 supra) and those functions spelled out in Section 178.860, supra, are assigned to the Board of Regents. The authority to call a bond election, issue bonds when approved and tax to pay the principal and interest thereon for the operation of the Junior College under Subsection 2 of Section 174.240 is assigned to The Board of Trustees of the Junior College District. Under Subsection 2 of Section 178.770, the Junior College District has the power to "levy and collect taxes within the limitations of Section 178.770 to 178.890, issue bonds and possess the same corporate powers as common and six-director school districts

in this state, other than urban districts, except as herein otherwise provided." Section 164.121, RSMo Cum. Supp. 1965, applicable to six-director school districts other than urban districts, expressly provides that the Board of Trustees shall exercise these powers. Applying the doctrine that when a statute prescribes a particular thing upon which it is to operate, all other things not expressly mentioned are excluded from its operation, we conclude the fiscal powers stated above in Sections 174.240 and 178.770, are vested solely in the Board of Trustees. (Kansas City Terminal Railway Company v. Kansas City Transit Inc., 350 SW 2d 828, 831, Transferred 359 SW 2d 698, cert den. 83 Supreme Court 551, 371 U.S. 968, 9 L. Ed 2d 539; Parvey v. Humane Society of Missouri 343 SW 2d 678, 681.)

We conclude that the Board of Regents now has the responsibility for the "administration" expressly delegated by Sub-section 1 of Section 174.240, supra, as well as the authority found in Section 178.860, supra, over the present Jasper County Junior College and when organized, will exercise the same authority over the Missouri Southern State College.

We thus conclude that the Board of Trustees of the Junior College District was authorized to call an election in the Junior College District for the purpose of submitting a proposition to issue bonds of the Junior College District; and, as the voters authorized the bond issue, the Board of Trustees of the Jasper County Junior College District now has the power to authorize the issuance of the bonds; to cause the bonds to be executed by the Board of Trustees; to sell the bonds as the obligation of the Junior College District; and to levy taxes on the taxable, tangible property situated in the Junior College District for the purpose of paying the principal and interest thereon.

CONCLUSION

It is the opinion of this office that:

1. The provisions of Sections 174.230 and 174.240, RSMo Cum. Supp 1965, provide for two boards to be known as the Board of Regents and the Board of Trustees to govern the Jasper County Junior College District.
2. The Board of Trustees exercises the fiscal powers denominated in Subsection 2 of Section 174.240 and Section 178.770 RSMo Cum. Supp. 1965, over the Jasper County Junior College.

3. That the Board of Trustees is the proper agency to authorize the issuance of the bonds voted on May 7, 1965; to cause the bonds to be executed by the officers of the Board of Trustees; to sell the bonds as the obligations of the Junior College District; and to levy taxes on property situated in the Junior College District to pay the interest and principal of said bonds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Richard C. Ashby.

Yours very truly,


NORMAN H. ANDERSON
Attorney General