

**School Districts, Power of to Borrow Money. School Trustees, Authority of to Borrow Money in the Name of the District. School Districts, Indebtedness of How Paid.**

The only ways provided by law by which a board of trustees may obtain money are by taxation and the sale of bonds. They can bind the district in no other way, and a note given by them as trustees of the District, is not binding upon the district, and could only be a personal obligation of the trustees. Chap. 76 of the Session Laws of 1913, gives power to boards of trustees to pay back money borrowed by trustees out of the general fund of the district.

January 29, 1915.

Hon. H. A. Davee,  
Superintendent of Public Instruction,  
Helena, Montana.

Dear Sir:

I am in receipt of your communication under date the 21st inst. submitting for my consideration a letter from Mr. Walter E. Child, Clerk of School District No. 23, Flathead County.

The letter states that some time ago, the maximum indebtedness having been reached by that district, the Board of Trustees borrowed \$9,000.00. All of this except \$2,000.00 has been repaid by a special tax levy. This amount is represented by a note signed by the trustees as Trustees of the District. Upon this state of facts the following two questions are submitted.

"If a new note is given in place of the one now held, signed by the trustees as the Board of Trustees, and purporting to bind the District, will the trustees be liable personally in case the District is not bound?"

"Can this indebtedness be paid out of the general fund, or in any other way?"

In answer to the first question, I will say that there are only two methods known in law, by which a board of trustees may obtain money; first, by a tax, regularly levied; second, by an issue of bonds. In no other way are they given power to bind the district. It follows, therefore, that a note given by them as suggested in the question would not be binding upon the district, and would only be the personal obligation of the trustees.

In answer to the second question, I will say that the legislature has given express authority for the payment out of the general fund of the district of funds borrowed in this manner. This provision would extend only to those obligations incurred previous to the passage of Chap. 76 of the Session Laws of 1913, i. e. March 12, 1913.

Yours very truly,

D. M. KELLY,  
Attorney General.