

**School Districts—Liability to Teacher for Loss Occasioned by the Discount of Warrants.**

A school district is not liable to a teacher for loss sustained by her as the result of discount of her salary warrants by a bank.

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County Attorney,  
Forsyth, Montana.

My dear Mr. Crawford:

You have submitted to this office the following question:

"Is a school district liable when a warrant is drawn for the payment of a teacher's salary and the warrant is discounted 5 per cent by a local bank because there are no funds in the treasury to meet the same?"

Section 964 of the Revised Codes of 1921 provides, in part, as follows:

"Such warrant shall show for what purpose the money is required, and no such warrant shall be drawn unless there is money in the treasury to the credit of such district; provided, that school trustees shall have the authority to issue warrants in anticipation of school moneys which have been levied but not collected for the payment of current expenses of schools, but such warrants shall not be drawn in any amount in excess of the sum already levied."

Under this provision, it is apparent that the Board has no right to issue warrants where there are no funds on hand to pay the same, except in anticipation of taxes levied but not collected.

Section 1203 of the Revised Codes of 1921 provides the manner of levying taxes in a school district, and is, in part, as follows:

"On or before the second Monday in July the board of trustees of each school district shall certify to the county commissioners the amount of money needed by the district, over and above the amount apportioned to it by the county superintendent under the provisions of section 1204 of this code to maintain the schools of said district, to furnish additional school facilities therefor, and to furnish such appliances and apparatus as may be needed, and, in districts of the first and second class, to maintain a school term of at least nine months in each year; in case the board of trustees of any school district shall fail to make such specifications to the board of county commissioners at the time herein specified, the county superintendent shall ascertain the amount of money needed by the district for the purposes specified in this section, and advise the county commissioners, on or before the time designated by law for the levy of tax, of the amount required by such school district; and the board of county commissioners shall thereupon levy a special tax for such purposes, not exceeding ten mills per dollar on the taxable property of the district, such tax to be levied at the same time and in the same manner that other taxes are levied, \* \* \* "

This section provides that taxes shall be levied at the same time and in the same manner as other taxes are levied.

Section 2150 of the Revised Codes of 1921 provides:

“The board of county commissioners of each county must, on the second Monday in August, fix the rate of county taxes and designate the number of mills on each dollar of valuation of property for each fund, and must levy taxes upon the taxable property of the county.”

It is, therefore, apparent that no levy is made until the second Monday in August. The school term usually begins in September, but taxes have then been levied, and, although not collected until the thirtieth of November, warrants may be issued against them in anticipation of the fact that they will be collected at that time. This is not true, however, of warrants drawn prior to the second Monday in August, as there is no levy to anticipate, unless it be a special levy upon a vote of the taxpaying freeholders of the district. While warrants might be issued in violation of express statutory provision, still, in my opinion, no action could be maintained against the district for discounting the warrants. (*Jay v. School District*, 24 Mont. 219).

Everyone dealing with public officers is bound to know the extent of their authority, as they have only such powers as are expressly given them by statute. (22 R. C. L. 459, Sec. 119).

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.