

School District Bonds—Powers of School Board—Investment of Funds.

The trustees of a school district have no power or authority to invest funds of the school district except in the case of a surplus of \$1,000 or more accumulated in a sinking fund. The Board, however, has authority to buy back the bond issue at not exceeding par.

J. D. Taylor, Esq.,
County Attorney,
Hamilton, Montana.

My dear Mr. Taylor:

You have requested an opinion of this office on the following question:

“School District No. 2 of Stevensville having disposed of bonds for the purpose of building a schoolhouse, the Board now finds that the proceeds are not sufficient to complete the

proposed project, and in order to save the district interest charge on the bonds, desires to invest or loan these funds at a rate that will take care of the interest charge during the delay."

It is a well-settled principle of law that a school board has only such powers as are expressly given it by statute, or such as are necessarily implied from those expressly given.

A school district may issue bonds for any of the purposes authorized by Section 34, Chapter 196, Laws of 1919, but the Legislature evidently did not intend a school board should retain in its hands funds raised by a bond issue. Hence, it has provided no authority for investing such funds.

Section 3 of Article XIII of the Constitution provides:

"All moneys borrowed by or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan."

In providing for the payment of bonds, the Legislature has made provision for the accumulation of a sinking fund sufficient to pay the bonds at maturity, and has provided for the investment of such funds when a surplus of \$1,000 or more has accumulated. (See Sec. 2020, Chap. 76, Laws of 1913.) Under this section, the Board may purchase any of the outstanding bonds issued by the Board at not more than their par value, or if such bonds cannot be purchased, such sinking fund shall be invested by the Treasurer, under the direction of the Board, in interest-bearing bonds of the United States or of the State of Montana, which shall be purchased at the lowest market price.

This office recently held, in an opinion addressed to L. V. Ketter, Esq., County Attorney of Richland County, that a county cannot lawfully contract with the bank for the payment of a rate of interest, upon public moneys deposited in the bank, greater than that provided for by Section 3003, Revised Codes of 1907, as amended by Chapter 88 of the Laws of 1913, which is 2½ per cent. I am enclosing a copy of this opinion herewith.

There is no provision of law authorizing the Board or Treasurer, at the direction of the Board, to dispose of these funds other than in the general manner of depositing public funds in various banks at a rate not to exceed 2½ per cent interest under Section 3003 of the Revised Codes of 1907.

I can see no objection, however, should the Board be able to do so, to their buying back this bond issue at not exceeding par. They could then extinguish the debt and be in a position to start over again in bonding the district, should occasion warrant.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.