

Contracts — Counties — County Commissioners — School Trustees—Warrants.

Contracts enumerated in Section 1010, Revised Codes of Montana, 1921, as amended, must be approved by the County Superintendent of Schools and the County Commissioners before they can be entered into.

Warrants drawn in payment of any of said contracts must not only show the purpose, but must also show the approval of the contract they were issued in payment of.

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My dear Mr. Foss:

You have called my attention to the provisions of Section 1010, Revised Codes of 1921, as amended by Chapter 70, Laws of 1923. This section relates to transportation of pupils and provides:

“When they (the Trustees) deem it for the best interest of such district and the pupils residing therein, that any of such pupils should be sent to a school in their own or some other district, they may expend any moneys belonging to their district for the purpose of either paying for the transportation of such pupils from their homes to the public school or schools of such district or for their board while actually attending such schools or for rent; provided that the County Superintendent of Schools and County Commissioners shall determine before any contracts are entered upon whether such provision of board, rent, transportation or tuition is justified by the circumstances and also what is a reasonable charge for board, rent, transportation or tuition in every case where such measures have been adopted. If in the judgment of the County Superintendent and County Commissioners there is any evidence of fraud in securing an allowance for board, transportation, house rent or tuition by reason of the applicant's having purposely changed his residence or otherwise having contrived to secure assistance, no district funds shall be allowed for any of the purposes above enumerated.”

You ask whether, in case the contract is not approved by the county officers, but the Trustees nevertheless continue to pay transportation, it is the duty of the County Superintendent to issue an order to the County Treasurer not to pay the warrant, or what course should the County Superintendent take.

Formerly it was not necessary for the County Superintendent and the County Commissioners to approve a contract for transportation. However, it was evidently the intention of the Legislature to deprive the Board of Trustees of the right to enter into any of the contracts

enumerated in this section without the approval of the County Superintendent and the County Commissioners. In case they do not approve the contract, no binding contract can be entered into.

While this section does not require the countersigning of the warrant by the County Superintendent or by the Board of County Commissioners, as does Section 1019, nevertheless if the School Board has no authority to enter into such a contract, without the approval of the County Superintendent and Board of County Commissioners, it has no authority to issue a warrant in payment of such a contract, and any warrant issued otherwise than with said approval would be issued without authority of law as contemplated by Section 1205, which provides:

"If any school money shall be paid by authority of the Board of Trustees for any purpose not authorized by this chapter, the Trustees consenting to such payment shall be liable to the district for the repayment of such sum, and a suit to recover the same may be brought by the County Attorney, or if he shall refuse to bring the same, a suit may be brought by any taxpaying elector in the district."

Section 964 requires warrants to show upon their face the purpose for which the money is required. By reason of the fact that the contracts enumerated in Section 1010, as amended, must be approved by the County Superintendent of Schools and the Board of County Commissioners before they can be entered into, warrants issued in payment of any of said contracts must not only show the purpose, but must also show the approval of the contract they were issued in payment of before their validity is made to appear. This does not necessitate the countersigning of the warrants by the County Superintendent and the County Commissioners, but the warrants should show, in addition to their purpose, that the contract was duly authorized and approved by the County Superintendent and the County Commissioners.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.