

**Warrants—County Treasurer—School Trustees—School Warrants—Sinking Fund.**

The County Treasurer cannot invest moneys of the sinking fund of a school district in warrants of the district.

I. S. Crawford, Esq.,  
County Attorney,  
Forsyth, Montana.

My dear Mr. Crawford:

You have submitted to this office the following question:

Has a Board of Trustees authority under the provisions of Section 1230, R. C. M. 1921, to authorize the County Treasurer to invest its sinking fund, or any part thereof, in school warrants of the district? Could the County Treasurer be compelled to invest this sinking fund in school warrants of the district?

Prior to the amendment of Section 1229, Revised Codes of 1921, by Chapter 153 of the Laws of 1923, it contained the following provision with reference to the investment of the sinking fund, which does not now appear in it:

“provided, that the Board may, with the surplus of such sinking fund, when the same shall be one thousand dollars or more, purchase any of the outstanding bonds issued by the Board. \* \* \*

“If for any reason such bonds cannot be purchased as hereinbefore specified, such sinking fund shall be invested by the Treasurer under the direction of the Board of Trustees, at such times as the Board shall direct, in interest-bearing bonds of the United States or of the state of Montana, which shall be purchased at the lowest market price.”

The inference to be drawn from the omission of the foregoing provision from the section, after amendment, is that the district has no authority now to invest the sinking funds of the district as therein authorized.

It is to be noted that no investment in any kind of bonds, as therein authorized, could be made unless the sinking fund amounted to \$1,000.00 or more. On the other hand, Section 1230 authorizes the redemption of any bond or bonds of the district whenever the amount in the sinking fund is sufficient to do so. This section was a companion section to Section 1229, and both sections appeared in the Codes of 1907 as Sections 1009 and 1010.

The omission from Section 1229, when amended, of the portion heretofore referred to did not, in my opinion, repeal by implication the provisions of Section 1230, or affect it in any way, particularly

with reference to investing the sinking fund in state or county bonds until the redeemable period of one or more of the bonds of the district should arrive.

It is, therefore, my opinion that the investment in the character of securities which the Trustees are authorized to direct the County Treasurer to make, as provided in Section 1230, is exclusive, and it follows that the district has no authority to direct the County Treasurer to invest the sinking fund, or any part thereof, in warrants of the district.

Very truly yours,

L. A. FOOT,  
Attorney General.