

Irrigation Districts—Official Bonds—Bonds.

Commissioners of irrigation districts required to give bond in the sum of \$2500 where obligations of district amount to \$250,000 or more, and secretary required to give bond of \$1,000. In other cases commissioners required to give bond of \$1,000 and no bond required of secretary.

Mr. R. N. Hawkins,
Assistant State Examiner,
Helena, Montana.

June 27, 1931.

My dear Mr. Hawkins:

You have called attention to some conflicting provisions of the statute relative to the amount of the bond which commissioners and secretaries of irrigation districts are required to give.

You called attention to section 7170, R.C.M. 1921, and also to section 7173 as amended by chapter 157, laws of 1923, and further amended by chapter 15, laws of 1929. Both of these sections were a part of the original act relative to irrigation districts, which was chapter 149, laws of 1909. Section 7170, which has never been specifically amended or repealed, contains the following provision:

“Each of such commissioners shall qualify in the same manner as Justices of the Peace, and shall give a bond in the sum of \$2,000.00, conditioned upon the faithful performance of their duties to be made payable to the state for the benefit of the district.”

Section 7173, as amended by chapter 15, session laws of 1929, with reference to the bond required of commissioners, provides:

“The Commissioners of said irrigation district shall each furnish a bond in the penal sum of Twenty-Five Hundred Dollars (\$2500.00), with corporate surety conditioned for the faithful performance of their duties under this act, and the Secretary shall furnish bond, with corporate surety, in the sum of One Thousand Dollars (\$1000.00), conditioned for the faithful performance of his duties pursuant to this Act, and for the proper and safe keeping of the records and documents of said district, in all cases where the obligations of said district, either existing or proposed, total Two Hundred and Fifty Thousand Dollars (\$250,000.00) or over. In all other cases the Bond for said Commissioners shall be in the sum of One Thousand Dollars (\$1000.00).”

These two sections are apparently in conflict with respect to the amount of the bond which the commissioners are required to give. It is to be observed that section 7170 required the bond in a sum of \$2000.00 conditioned upon the faithful performance of duties. The same clause is contained in chapter 15, so that both bonds would cover the same matter.

It is therefore my opinion that chapter 15, being a later act and requiring a bond in the sum of \$2500.00 in cases where the obligation of the district amounts to \$250,000.00 or over, controls the previous section, and that in such cases the secretary who is made the custodian of the obligation is required to give a bond of \$1000.00. That in all other cases, that is, in all other cases where the amount of obligation does not amount to as much as \$250,000.00, the commissioners are required to give a bond in the sum of \$1000.00 each, and that no bond is required of the secretary.

Very truly yours,

L. A. FOOT,

Attorney General.