

VOLUME NO. 37

OPINION NO. 83

BONDS - COUNTY BONDS - County high schools; surplus funds; COUNTIES - County high school bonds, disposition of surplus funds; SCHOOLS AND SCHOOL DISTRICTS - County high school bonds, surplus; REVISED CODES OF MONTANA, 1947 - Sections 16-2041, 75-6501, 75-7133 to 7138, 75-7137.

HELD: The money remaining in a bond debt service (sinking and interest) fund after payment of a bond debt incurred for a county high school must

be transferred to the county general fund unless the board of county commissioners directs that such funds be transferred to another series or issue of county bonds.

27 October 1977

James J. Masar, Esq.  
Powell County Attorney  
Powell County Courthouse  
Deer Lodge, Montana 59711

Dear Mr. Masar:

You have requested my opinion on the following question:

What is the proper disposition of funds remaining in a bond debt service (sinking and interest) fund after payment of a bond debt which was incurred for a county high school under Title 75, chapter 71, R.C.M. 1947?

County high schools, unlike district high schools, have no bonding authority. Section 75-6501, R.C.M. 1947. Instead, bonds are issued by the county as county obligations pursuant to sections 75-7133 to 7138, R.C.M. 1947. The county commissioners are responsible for submitting the bond question to the electors, and in issuing, marketing, and paying the bonds, treat them as any other county bond. Sections 75-7135 and 7137, R.C.M. 1947. Therefore, the general provisions governing county bonds, rather than the district high school statutes, must be looked to in determining the proper disposition of surplus funds.

Section 16-2041, R.C.M. 1947 directs the disposition of funds remaining after payment of county bonds:

When all bonds...have been fully paid, or called in for payment, and there remains...any amount not required for the payment of such (county) bonds and interest, such excess amount and all amounts subsequently collected for such fund shall be transferred to the general fund of the county, or to the sinking and interest fund of any other series or issue of bonds outstanding that the board of county commissioners may designate.

THEREFORE, IT IS MY OPINION:

The money remaining in a bond debt service (sinking and interest) fund after payment of a bond debt incurred for a county high school must be transferred to the county general fund unless the board of county commissioners directs that such funds be transferred to another series or issue of county bonds.

Very truly yours,

MIKE GREELY  
Attorney General