

Public Building Fund, Investment Of. Funds of State Capital Grant, How Invested. State Board of Land Commissioners, Powers Of in Investing Public Building Fund.

The State Board of Land Commissioners has authority to invest the money received from the sale of lands granted to the State for a public building at the Capital in bonds of the State, county, school district, etc. Such bonds need not be the first issue of the school district.

Helena, Montana, July 20, 1907.

State Board of Land Commissioners,
Helena, Montana.

Gentlemen:—

Your request for an opinion upon the following proposition received:

Has the State Board of Land Commissioners authority to invest funds received from the sale of lands granted to the State for the purpose of erecting public buildings at the Capital in bonds of the classes mentioned in Section 3498 as enacted by the laws of 1899, page 92. And if so, may such funds be invested in school district bonds which are not the first issue of such districts.

Section 3471 of the Political Code provides that your Board has authority to provide for the selection, lease, sale or other disposition of all lands heretofore, or which may hereafter be granted to the State of Montana by the United States, or otherwise, under such regulations as may be prescribed by law, and in such manner as may secure the maximum possible amount provided therefor.

Sections 3478 to 3485, as enacted by the Laws of 1899, page 87, with amendments thereto, provides for the sale of all lands granted to the State, and that such sales must be made on the installment plan, and that interest shall be collected on the annual payments due on such purchases.

Inasmuch as the above laws expressly give your Board authority to sell lands granted to the State for public building purposes at the Capital, and to receive bonds as security for the payment of the installments still due, together with the interest thereon, we are of the opinion that the Board, in order to secure "the maximum possible amount", out of these land grants, has the implied power to invest the cash received from such land grant, in bonds of the classes mentioned in said Section 3498, in order that such money shall not lie idle but will be earning interest for the benefit of such fund.

As said Section 3498 only prohibits the Board from investing the permanent school funds in school district bonds which are not the first issue of the district, you are advised that there is nothing prohibiting you from investing the funds received from the public building grant in the second issues of school district bonds, so long as you are satisfied that they are a safe investment.

As the funds received from the public building grant should be

available to pay the public building bonds at maturity, provision should be made in the law, before the maturity of the public building bonds for the sale of the bonds purchased with the public building fund as an investment for the permanent school funds. This might necessitate an amendment of the law which prohibits the investment of the permanent school funds for second issues of school district bonds.

Very truly yours,

ALBERT J. GALEN,

Attorney General.