

**County Free High School, Taxes for Building Purposes.
Taxes Levied for Building Free High School. School, County
Free High, Taxes for Building.**

Under Chap. 29, Laws 1907, taxes may be levied for the purpose of building a county free high school, and when the funds raised from such levy are in the hands of the treasurer, the trustees may use the same for building purposes; provided they do not exceed the amount on hand, nor enter into any contract for a single purpose in excess of ten thousand dollars.

Helena, Montana, April 16, 1908.

Hon. Farris Steele,
Chairman, Board of County Commissioners,
Boulder, Montana.

Dear Sir:—

Your request for an opinion upon the following questions has been received:

Jefferson County, pursuant to the provisions of Chapter 29, Laws of 1907, held an election at which a free county high school was established and the location thereof fixed at Boulder, the county seat of said county. Thereafter, in accordance with the provisions of Section 8 of said chapter, the board of county commissioners levied a tax for the use of such school, and also levied a tax for the purpose of building a school house for said high school. The taxes under said levies were paid without protest. From the levy made for the purpose of building said school house there has been received about ten thousand dollars, which is now in the county treasury to the credit of the building fund of said high school.

Can the money now on hand to the credit of said building fund thus collected, be used for plans, specifications for, and work upon the county free high school building?

Section 8 of said Chapter 29 provides that the trustees of said high school "shall make an estimate of the amount of funds needed for building purposes, for payment of teacher's wages and for the payment of contingent expenses," and that upon presenting a certified estimate of the rate of taxes required to raise the amount desired for such purposes, the board of county commissioners must levy such tax; provided the tax shall not exceed in one year the amount of ten mills on the dollar.

This section clearly gives the board of county commissioners authority to levy a tax for building purposes.

Section 13 of said chapter provides that the trustees of the high school must select a site for the school building, "and shall then proceed to make purchase of material and to let such contracts for the necessary school buildings as they may deem prop̄er;" provided, however, that they shall not make any purchase or any contract whereby obligations are assumed in excess of the amount of funds on hand or available through the levy of taxes for the current year."

This section clearly gives the board of trustees authority to erect a high school building out of the moneys received from the tax levied for building purposes, pursuant to said Section 8, subject, of course, to the limitation that they cannot exceed the amount of money on hand.

There is also another limitation not expressed in said Chapter 29 which must be observed, namely: The provisions of Section 5, Article XIII of the state constitution which reads as follows:

No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand (\$10,000.00) dollars without the approval of a majority of the electors thereof voting at an election to be provided by law.

You are therefore advised that, in our opinion, the board of high school trustees have authority to use the money received from the tax levied for building purposes for the purpose of securing plans and specifications, and for paying for work upon such high school building; provided that they do not exceed the amount of funds on hand, and that the aggregate of the contracts they enter into for the purpose of securing site and erecting such building do not exceed \$10,000.

See Hefferlin vs. Chambers, 16 Mont. 349.

Very truly yours,

ALBERT J. GALEN,

Attorney General.