

**School Districts, Division of Property and Debts Between.  
Bonds of School Districts, Liability on Division of Districts.**

Where a school district issues bonds for the erection of a school house, and thereafter a new district is created which embraces such school house, the new district is liable for the payment of such bonds. Money standing to the credit of the old district must be divided between it and the new district according to the school census of the two districts.

Helena, Montana, March 1, 1909.

Hon. Thomas Dignan, County Attorney, Glasgow, Montana.

Dear Sir:

I am in receipt of your letter of February 20, in which you request an opinion upon the following facts:

School District No. 5 was organized in Valley County, and thereafter the District issued bonds to the amount of \$15,000.00 for the purpose of erecting a school building at Culbertson. Since that date District No. 10 was cut off of District No. 5; also District No. 15. Thereafter, and on December 1, 1908, the inhabitants of Culbertson and vicinity petitioned for a new district, to be cut off of District No. 5. This new district was created and designated District No. 17, and contains the school building theretofore erected with the money received from the bond issue of \$15,000.00 by District No. 5. You state that \$10,000.00 of this bond issue still remains unpaid, and request an opinion as to which district is liable for the payment of these bonds.

In an opinion heretofore rendered to county attorney Ayres on September 30, 1905, (See opinions of Attorney General 1905-06, p. 200), it was held that where a new district was created, and the old district retains the buildings and improvements for which bonds had been issued to erect the same, that the old district was liable for these bonds, inasmuch as it still held the property. But under the facts stated above, it is the new district; namely, No. 17, which receives the property and buildings erected with the money received from the sale of the bonds. Therefore, in my opinion, District No. 17 is liable for the payment of these bonds, and it is the duty of the trustees of that district to annually make a levy to pay the interest on, and create a sinking fund, for the redemption of the balance of the bonds.

You also state that at the time District No. 17 was created there was

\$11,000.00 in cash to the credit of District No. 5, which was raised by special tax levy in 1905, and request an opinion as to how this cash should be divided between Districts Nos. 5 and 17.

Section 843, of the Revised Codes, provides the method of dividing the money when a new district is formed, and expressly states that the school funds remaining to the credit of the district, after providing for all outstanding debts, except debts incurred for buildings and furnishing school houses, was to be divided according to the last school census before the division of the district occurred; that is, the proportion of the cash each district receives shall be based upon the per cent of school children in that district as compared to the total number before the division.

This is the method provided by statute and must be followed, and there is no authority of law for dividing the money according to the assessed valuation of the property in the two districts after division.

Very truly yours,

ALBERT J. GALEN,  
Attorney General.