

County Free High School. Trustees, of County Free High School.

The trustees of a county free high school have no authority to enter into any contract, make any purchase or assume any obligation in excess of the amount of funds on hand or available through the levy of taxes for the current year.

Helena, Montana, March 12, 1909.

Hon. D. M. Kelly, County Attorney, Boulder, Montana.

Dear Sir:

I am in receipt of your letter of March 4, wherein you inquire as to whether or not the Board of Trustees of the Jefferson County Free High School may let a contract for the construction of a county free high school at a price in excess of the amount of funds on hand.

Section 930, of the Revised Codes of Montana, provides that the trustees "shall not, however, make any purchase, or enter into 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, or the issuance of bonds."

This would preclude the trustees from entering into a contract for the construction of a high school building at a price greater than the amount of funds now on hand; but, for your information, I advise you that when the taxes are levied the board may estimate the amount to be secured therefrom, and even before the collection of such taxes may enter into a contract for the erection of the school building at a price not in excess of the actual money on hand, together with the estimated amount of taxes to be received during the current year.

A question similar to the one you now ask was submitted by Honorable Farris Steele, Chairman of the Board of County Commissioners of Jefferson County, and an opinion, under date of April 16, 1908, in answer thereto will be found in the report of official opinions of Attorney General 1906-'08, at page 257. This office also gave its opinion, addressed to J. H. Rice, State Treasurer, on October 18, 1905, wherein the question of using funds to be derived from taxation prior to the actual collection of discussed. This opinion you will find at page 218, official opinions of Attorney General 1905-'06.

Very truly yours,

ALBERT J. GALEN,

Attorney General.