

**School District, Funds Of May Be Used for What. School Funds, for What May Be Used. School Trustees, May Use What Funds to Instal Heating Plant.**

Where the school board has directed the county commissioners to make a general levy for school purposes and there is sufficient funds to conduct the school the board of trustees may use so much of the general fund received from the tax levy as may be necessary for installing a heating plant and it is not necessary in such a case to first submit the matter to a vote of the dictrict.

December 7th, 1911.

Hon. W. L. Ford,  
County Attorney,  
White Sulphur Springs, Mont.

I acknowledge receipt of your letter of November 29th submitting for my opinion the following question:

"School District No. 21 has issued bonds for the purpose of building a school house and furnishing the same. The full amount of the bond issue will be used in completing the building except the heating plant. Can the district use the gen-

eral fund to install the heating plant, reserving sufficient to conduct the school?"

In reply I wish to confirm your opinion in answer to this question as follows:

Under the provisions of Sec. 898, Revised Codes, county school moneys may be used by the county superintendent and the trustees for the various purposes authorized and provided in the article in which this section is found, and for no other purposes, except that in any district any surplus in the general fund to the credit of the district, after providing for the expenses of not less than eight months school, may, on a vote of the qualified electors of the district, be used for the purpose of building and improvement.

Sec. 875, Rev. Codes, provides that every school board, unless otherwise especially provided by law, shall have power and it shall be its duty: (4) to provide for school furniture and for everything needed in the school house or for the use of the school board.

Sec. 995, Rev. Codes, provides that on or before the day designated by law for the commissioners of each county to levy the requisite taxes for the ensuing year, the school board in each school district shall certify to the county commissioners the number of mills per dollar which it is necessary to levy on the taxable property of the district, not to exceed 10 mills, to raise a special fund to maintain the schools of said district, to furnish additional school facilities and to furnish such appliances and apparatus as may be needed.

The installation of a heating plant would certainly be an improvement within the provisions of Sec. 898 supra, and under this section the board of trustees might submit the question of using any surplus in the general fund to the credit of the district after providing for the expenses of not less than eight months school, to a vote of the electors of the district for such purpose.

Opinions of Attorney General, 1908-10, p. 141;

City of Butte vs. School Dist. No. 1, 29 Mont. 336.

I am informed by you, however, that your school board under the provisions of Sec. 995, above cited, certified to the county commissioners a four mill levy, "to raise a special fund to maintain the schools of said district, to furnish additional school facilities, and to furnish such appliances and apparatus as may be needed."

In my opinion the installation of a heating plant would be an additional school facility or an appliance or apparatus needed to maintain the school and that the board could therefore use so much of the general fund as was received from said four mill levy for the purpose of installing such heating plant, provided, they have a sufficient surplus fund to conduct the school. The board would certainly have authority under said section 995 to place stoves in the building for heating purposes and if the surplus of the tax levy is sufficient

to furnish and install what is called a heating plant they would certainly have authority to do so.

See:

State vs. Cave, 20 Mont. 469;  
Vol. 35 CYC 946.

Yours very truly,

ALBERT J. GALEN,

Attorney General.