

**School Districts, Bonds. Current Expenses, Etc., Bonds for.
Bonds, School District.**

It is not lawful for a school district to issue bonds for current expenses, establishing a sinking fund and paying interest on school house bonds.

January 6th, 1914.

Hon. C. J. Jeffries,
County Attorney,
Roundup, Montana.

Dear Sir:

In reply to your letter of the 29th ultimo, requesting an opinion upon the question submitted to you by the trustees of School District No. 1 of your county, which follows:

"We wish to know if you can bond the district for a term of three years for the purpose of meeting current expenses establishing a sinking fund and paying interest on our school house bonds held by the state?"

I am of the opinion that the question must be answered in the negative. The authority to bond school districts is found in Sec. 507, paragraph 6, Session Laws of the Thirteenth Legislative Assembly, at page 231, which reads in part as follows:

"The board of trustees shall have power to call a special election for the purpose of bonding the district for the erection and furnishing buildings and purchase of school sites."

Authority is also given to issue refunding bonds. This power is conferred by Sec. 2030, which reads in part as follows:

"The school trustees of any school district of the State of Montana shall have, and are hereby given in addition to the power already conferred on them, authority to issue on the credit of their respective districts coupon bonds (and sell or dispose of the same) for the purpose of providing the necessary funds to pay maturing, redeemable or optional

bonds under the following conditions, to-wit: (1) When there is not sufficient money to the credit of the school district applicable to pay any of said bonds. (2) When in the judgment of the school trustees to levy and collect a special tax for the purpose of paying any of said bonds, would be a hardship and a burden to the school district."

The manner in which bonds are to be issued is disclosed by Sec. 2015 at page 235. In the case of Jay v. School District No. 1 24 Montana, page 219, the principle is laid down that school districts are public corporations, but their powers are very limited. They can exercise none except such as are conferred by the law creating them, either expressly or by fair implication.

See also 35 Cyc., page 998.

It follows, therefore, that the school district is without authority to issue bonds for the purposes given in the question as propounded.

Very truly yours,

D. M. KELLY,
Attorney General.