

County Funds, Transfer of. Funds, Transfer of. Transfer of Funds.

Under the provisions of Section 2921, Revised Codes, the county board may transfer surplus money from one fund to another fund when the interest of the county demand such transfer.

February 14th, 1914.

Hon. Henry V. Beeman,
County Attorney,
Forsyth, Montana.

Dear Sir:

I am in receipt of your letter of the 10th instant, submitting the question:

"As to the right of the board of county commissioners to transfer money from the general fund of the county to the bridge fund for the purpose of paying interest on bonds theretofore issued for the construction of bridges?"

I understand that the state of facts on which the above question is predicated is substantially to the effect that bonds have been heretofore issued for the construction of a bridge, and that for some reason not apparent. In any statement made to this office, the provisions of Sec. 2912, relative to the levying taxes for the payment of interest and to provide for the redemption of the bonds, have not been complied with.

Sec. 2921, Revised Codes, is very general and comprehensive in its terms, not only authorizing the board to transfer surplus moneys from one fund to another when it is deemed for the best interests of the county so to do, but it also authorizes the board to appropriate such surplus money to the payment of the outstanding indebtedness of the county and no limitation is placed upon the character of this indebtedness. When these bonds are issued the faith of the county is pledged for the repayment, and whatever may be the liability of the officials for neglecting (if they did neglect) to comply with the provisions of Sec. 2912, the faith of the county is still pledged to the payment of the bonds, and while it is probably true that the moneys raised by the taxes specially provided for in Sec. 2912 could not be used for any other purpose, it does not follow that other moneys could not lawfully be used to pay the interest or principal of bonds where such taxes have for any reason failed. "The bond fund" is in a sense a special fund, and so is every other fund of the county.

I am of the opinion that where bonds are outstanding and there is no money in the fund authorized by Sec. 2912 to meet the interest or principal, but that there is a surplus of money in the general fund of the county, the same may be transferred and used for the purpose of paying such interest and principal; and I am further of the opinion that the duty enjoined upon the board of the provisions of Sec. 2912 is mandatory, and that the attention of the board should be directed to this fact, to the end that the credit of the county may not be impaired and that its obligations may be promptly met from the funds specially created by law for that purpose.

Yours very truly,

D. M. KELLY,
Attorney General