

County High Schools, Bonds for. Bonds, for County High Schools. Taxation, Levy for County High Schools. Levy, of Tax for County High Schools. Trustees, of County High Schools, Powers of.

A board of county high school trustees cannot fix the tax levy for their district for a term of successive years. Other opinions referred to. Any expenditure by a board of high school trustees for buildings amounting to more than \$10,000 must be submitted to the electors, whether bonds are necessary or not. The limitation expressed by Section 2111 of Chapter 76, Laws of 1913, goes only to the extent of prohibiting a tax to raise money for purposes for which bonds have been issued.

April 2, 1914.

Hon. H. A. Davee,
Supt. of Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your communication under date of March 30th, 1914, relative to the powers of boards of high school trustees in

the matter of taxation and bond issues, which are put by you in the form of the following three questions:

"1. Is Section 2111 of Chapter 76, Session Laws of 1913, perpetual in its operation, or is it limited to the year in which bonds are issued for building?"

"2. May portions of the amount necessary for erecting a county high school building be levied in accordance with Sec. 2188, mentioned above, in several successive years, or must the entire amount be levied at one time?"

"3. Must a county high school board submit to a vote of the electors the question of erecting a building or may they in accordance with Sec. 2104-7 (b) and Sec. 2108 of the act already mentioned, erect a building whatever the cost, so long as no bond issue is necessary."

The powers of the boards of trustees in the matter of taxation and finance have been before this office several times for consideration. The opinions heretofore rendered upon the subject are found in

Vol. 2 of the Opinions of the Attorney General, p. 173;

Vol. 3 of the Opinions of the Attorney General, p. 355;

Vol. 4 of the Opinions of the Attorney General, p. 474;

The result reached by these opinions are as follows:

1. Boards of county high school trustees cannot spend in excess of ten thousand dollars for any single purpose without first getting authority to do so by vote of the electors of the county. This is true even though the money is all on hand;

2. Boards cannot make contracts requiring the payment by them of an amount greater than the moneys on hand, and that which will be available by virtue of the tax levied for the current year;

3. They cannot levy a tax for future years. That is, they are limited to the levy for the current year.

In view of these holdings, as disclosed by previous opinions of this office, I am of the opinion that the Board of Trustees could not fix a levy for a term of successive years, and they could not bind their successors to levy any given amount for some specified purpose. This limitation would not, however, prevent the accumulation of a building fund by the levy of an amount for that purpose by successive boards of trustees for a series of years.

A county high school board is authorized to erect necessary buildings and furnish facilities for the high school, and may spend for such purposes an amount up to ten thousand dollars. If the proposed building costs more than ten thousand dollars, the question of whether it shall be built must be submitted to the electors of the county in any event, whether it is necessary to issue bonds or not. As to the application of Section 2111 of Chapter 76, Session Laws of the 13th Legislative Assembly, "in case bonds are issued, the trustees in making estimates for the maintenance of the high school, shall not include estimates for building or other purposes for which the said bonds are issued," the limitation therein expressed goes only

to the extent of prohibiting a tax to raise money for purposes for which bonds have been issued. Money for purposes not included in any bond issue, may still be raised by taxation, although there are bonds of the county outstanding. I think that what has been said above, and in other opinions of this office, referred to, covers the points raised by your letter.

Yours very truly,

D. M. KELLY,
Attorney General.