

School Houses, Changing Sites of. Sale of School Sites and School Buildings. School Trustees, Authority of. School Sites and Buildings, Sale of.

Under the provisions of Chapter 76 of the Session Laws of 1913, school houses cannot be removed, nor school sites be purchased, sold or located except by a direction of a majority of the electors of a district, in districts of the third class.

April 25, 1914.

Hon. J. D. Taylor,
County Attorney,
Hamilton, Montana.

Dear Sir:

I am in receipt of your letter under date of the 14th instant, enclosing an opinion rendered by you to certain school trustees upon

the question of the number of voters necessary to change the school house site. An examination of the provisions of Section 1600 of Chapter 76 of the Session Laws of the 13th Legislative Assembly, at once shows them to be ambiguous and confusing. The law first says:

“If a majority of the voters present at such meeting shall by vote decide to select, purchase, exchange or sell the school house site, the board shall carry out the will of the voters thus expressed.”

and then immediately says:

“It shall require the concurrence of the majority of the voters of the district to order the change of a school house site.”

Taken by itself the only possible construction which could be made to give effect to both provisions of this section, is that a change of site can only be made when agreed to by a majority of the electors of the district, but that a majority of the persons present at the meeting provided for by that section may decide upon the sale or exchange of the old site, and the purchase or acquirement of a new one. Section 1610, however, is not the only provision of the law relating to this subject. Subdivision 8 of Section 508 of the law, in enumerating the duties and powers of a board of school trustees, provides as follows:

“To build or remove school houses, and to purchase or sell school sites, provided that in districts of the third class, they shall not build or remove school houses, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district.”

The plain provision of this law is that a board of trustees can do none of those things unless so directed by a majority of all the electors residing in districts of the third class.

In view of the conflicting provisions of this law in respect to the authority of school trustees over school buildings, school sites, and the building or changing thereof, I am of the opinion that the provisions of Section 508, above quoted, must govern, and that such changes cannot be made unless consented to by a majority of all the electors of a district.

Yours very truly,

D. M. KELLY,
Attorney General.