

School Bonds, Bonds for County Free High School, How Submitted. Propositions for Bonding. Submission of Two or More Propositions as One.

Where two or more propositions are submitted to the electors, they should be so stated that votes for or against either proposition may be received.

Bonds for general school buildings, and bonds for dormitories, are two propositions.

June 27, 1914.

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

Dear Sir:

I am in receipt of your letter submitting a question as to the legality of a bond issue of a county free high school, at which the ballot used was in the following form:

"Shall county bonds be issued to the amount of eighty thousand dollars for the construction of a building for the county free high school, forty thousand dollars thereof for the enlargement of the present main building of the school and forty thousand thereof for the construction and equipment of a dormitory and domestic science building?"

Prior to the enactment of Chapter 76 of the Laws of 1913, there was not any statutory authority vested in county free high school boards to contract debts, either by the issuance of bonds or otherwise, for the erection and equipment of dormitories, but authority did exist for the issuance of bonds for the erection of school buildings. Dormitories were not recognized by the statute as school buildings. The authority given to erect such buildings is, therefore, a new power conferred, apparently separate from the power theretofore existing. A dormitory is not strictly speaking a place of instruction, but merely a rooming house for the accommodation of pupils. It seems to follow logically that the proposition of erecting what the law therefore regarded as necessary school buildings, and the proposition of erecting and equipping dormitories under the authority conferred by the later act, are two separate propositions. While it may seem very apparent to the school board that the dormitories are necessary to the best interests of the school, yet the question as to whether bonds shall be issued for their erection and equipment, is by the statute a question to be determined "by the electors of the county." The electors constitute the deciding tribunal, and aside from all statutory specific direction, it is the general policy that where two or more questions are submitted to the electors, they must be submitted in such form that the elector may be free to express his approval or disapproval on each question. It may be possible that unless objection was made to this ballot prior to the holding of election, that a court would decide that the objection came too late, but the court could also with equal propriety hold that the form of ballot was such as to vitiate the election. If the state is expected to bid upon these bonds, I would recommend that the two propositions be so separated that the elector may vote on either without either affirming or denying the other.

Yours very truly,

D. M. KELLY,

Attorney General.