

**Teachers, Employment of. Notice to Teachers. Failure to Give. Contract With Teacher, on Failure to Give Notice. Indebtedness of District, Outstanding at Time of Division. Division, of Indebtedness Between Old and New District. Sinking Fund, Disposition of.**

Where a school board has failed to give the teacher notice within the meaning of Section 801, Chapter 76, Laws of 1913, the old contract continues in its entirety.

Where a sinking fund has been accumulated for the payment of outstanding bonds in a school district, and the district is subsequently divided, the sinking fund remains to the credit of the old district, and is not subject to division.

May 5, 1915.

Hon. P. R. Heily,  
County Attorney,  
Columbus, Montana.

Dear Sir:

I am in receipt of your letter submitting the propositions:

1. Where a teacher has taught for two years within the meaning of Section 801, Chapter 76, Laws of 1913, and no notice is given, has the Board the authority to vary the terms of the contract for the year following without the consent of the teacher?
2. Where a bonded indebtedness is outstanding against a school district, and a sinking fund has been accumulated, and the district is thereafter divided, should the money in the sinking fund be divided?

The first question submitted must be answered in the negative. The inaction of the Board continues the old contract in all its provisions. Section 404, Chapter 76, Laws of 1913, gives direction for the division of funds and property in case of the organization of new districts, and Section 405 of that Chapter also gives direction for the distribution and apportionment of indebtedness in case of division of a school district for more than one school house. The sinking fund is created under the authority of Section 2019 and 2020 of said Chapter for the express purpose of paying the interest and redeeming the bonds when they become due. Specific direction is given in the latter section for the handling of this sinking fund. The bond-holders themselves have an interest in it. It is raised by taxation according to the valuation of property, and not according to population or the school census. It constitutes a special fund which can be used only for the purposes for which the tax was levied and collected, and in contemplation of law, when the money is paid into the sinking fund, it is held only for the purposes for which the fund is created, and cannot be invaded for any other purpose. Hence, if it were divided between the new and the old district, it would still be held for the payment of the bonds. It is, therefore, not money which should be divided, or distributed between the old and new district, but

should remain to the credit of the sinking fund of the district against whom the bonds are issued, and be handled and used as directed by Section 2020 of said Chapter 76.

Yours very truly,

D. M. KELLY,

Attorney General.