

Refunding Bonds, Issue of by County. County, Right of to Issue Refunding Bonds. Contingent Liability, Provision for.

Refunding bonds may be issued by counties only for the purpose of redeeming valid, legal, outstanding, unredeemed and unpaid bonds, warrants and orders of the county, and not for the purpose of providing for a contingent liability.

June 25, 1915.

Hon. Board of County Commissioners,
Roundup, Montana.

Gentlemen:

I am in receipt of your communication of recent date, setting forth that your honorable board is desirous of issuing refunding bonds for the purpose of redeeming outstanding warrants, drawn against the several funds of the county; that at a recent meeting of the board, a contract was entered into for the erection of a county jail to cost \$9,600, which it is contemplated shall be paid for from the general fund. You state the jail has not been completed, and no warrant has been drawn. Under this statement of facts you desire to know whether, under Chapter 32, Laws 1915, this \$9,600 can be included in the contemplated bond issue?

You are advised, Chapter 32, Laws of 1915, amends Sections 2905, 2907, 2908, Revised Codes of 1907, being part of the article dealing, among other things, with refunding bonds. Before such bonds may be issued, there must exist valid, legal, outstanding, unredeemed, and unpaid bonds, warrants or orders of the county. The letting of a contract by the county as indicated by you, for the erection of a county jail, creates a contingent liability against the county which becomes absolute only when the terms of the contract are fully complied with, and the building has been turned over to and accepted by the county. Until such time, there is and can be no valid, outstanding warrant or order against the county to redeem which refunding bonds may be issued.

Yours very truly,

J. B. POINDEXTER,

Attorney General.