

School District, Bond Issue of. Bond Issue of School District. Redemption of. Sinking Fund, Must Be Provided for. County Treasurer, Authority of. Authority of County Treasurer, to Set Aside Part of Special Tax.

Where a school district has floated a bond issue and no sinking fund is provided to retire the issue, the County Treasurer is without authority to set aside, from a special tax levied in the district, any thereof to redeem the bonds.

July 12, 1915.

Hon. Frank A. Wright,
County Attorney,
Lewistown, Montana.

Dear Sir:

I am in receipt of your letter of recent date, wherein you propound the following inquiry:

"In case a school district has floated a bond issue, but has neglected to provide a sinking fund, has the County Treasurer the authority to set aside, from a special tax levied in the district, an amount sufficient to redeem the bonds at maturity?"

It is my opinion that special taxes may be used only for the purpose of maintaining the schools of the particular district for which the levy is made, to furnish additional school facilities therefor, and to furnish such appliances and apparatus as may be needed, as provided in Section 2002 of Chapter 20, Chapter 76, Laws of 1913. If at any time, there be a surplus of school moneys on hand, the qualified electors of the district may authorize the use thereof for the purpose of retiring bonds, and improving buildings and grounds. Section 2004 (*idem.*) The school trustees are clothed with authority to issue refunding bonds under the powers conferred by Section 2030 (*idem.*) It is, however, the primary duty of the Board of County Commissioners to levy taxes for the

interest and redemption of bonds. Section 2020 (*idem*). The authority of the County Treasurer extends only to the authorization to pay interest upon any school bonds issued by the District, or of any moneys belonging to the District when the interest thereon shall fall due.

You are, therefore, advised that your question must be answered in the negative.

The answer to your question:

"Is a fireman exempt from road and poll tax?"

is withheld for the present, for the reason that a suit is now pending in the Supreme Court to determine the constitutionality of the poll tax law.

Yours very truly,

J. B. POINDEXTER,

Attorney General.