

**School District Bonds, Purposes for Which May Be Issued.
Bonds of School District, May Be Issued When.**

The board of school trustees have no authority to issue bonds for taking up outstanding current indebtedness other than that specified in the statute. Proceeds of a bond issue may not be transferred to the general fund and used for the purpose of taking up obligations for borrowed money for school maintenance.

December 18, 1915.

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

Dear Sir:

I am in receipt of your communication under date the 14th instant, submitting the following two questions:

1. "Under Section 2028, Session Laws of 1913, page 291, can the trustees issue bonds to take up outstanding indebtedness, which indebtedness was contracted *subsequent* to the passage of said section and its approval, for the purpose of maintaining school where the taxes levied and collected were not sufficient?"

2. "Can the proceeds of a bond issue for building school house and purchase of site or *any part thereof* be transferred to the general fund and used for the purposes of taking up obligations for money borrowed to maintain school under the conditions outlined in question 1?"

I find no authority in the law of this state authorizing boards of school trustees to issue bonds for taking up outstanding current indebtedness, other than that found in Sections 2025 and 2028 of Chapter 76, Laws of 1913. This, however, refers only to indebtedness incurred in certain instances previous to the passage of the Act.

As to the authority to transfer proceeds of a bond issue for building purposes, to the general fund, and the use thereof for the purpose of taking up obligations for borrowed money for school maintenance, I am of the opinion that this likewise cannot be done. Funds for building purposes are created by special taxation, and only after authority granted by the electors of the district. To allow such a transfer would be a plain and clear evasion of the purpose manifested by requiring an election. The law contemplates that current expenses shall be raised by taxation, and that only extra expenses, such as building or refunding indebtedness represented by bonds, shall be made by bond issue. To the same effect is the result reached, in opinion found in Volume 5, Reports and Opinions of Attorney General, page 392. This is in accordance with the conclusions reached by you.

Yours very truly,

J. B. POINDEXTER,

Attorney General.