

County Attorney, Duty of. School District Bond Issues, County Attorney Must Advise Upon. Compensation, County Attorney Not Entitled to from School Board.

The County Attorney must advise Boards of Trustees of School Districts within his county upon matters pertaining to their duties, and is not entitled to any fee or compensation other than his regular salary.

January 11th, 1916.

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

Dear Sir:

I am in receipt of your favor of the 6th inst., wherein you ask the following question:

"Has the county attorney any authority in law to charge a school district a fee for his services in rendering an opinion and giving advice in the matter of the proceedings of a board of trustees in so far as the same pertains to a proposed bond issue of the school district?"

An examination of the laws of this State discloses that in an Act of the legislature approved March 12, 1885, it is made the duty of the county attorney to be the legal advisor of school officers, and that he shall, when required by any of such officers

"give his opinion on any matters of law pertaining to their duties, without fee or compensation".

Sec. 845, Comp. Stats. of Montana, p. 869.

In an Act approved March 11, 1895, which appears as Sec. 2027 of the Montana Codes Annotated, the following appears:

"The county attorney shall be the legal advisor of the county superintendent, and all school trustees, and shall prosecute and defend all suits to which a district may be a party".

This same section appears as Sec. 1043 of the Revised Codes of 1907.

The school laws of the State were revised by Act of the Thirteenth Legislative Assembly of the State of Montana (Laws of 1913), said revision being known as Chap. 76, and the section above quoted was re-enacted and appears therein as Sec. 2206 of Chap. XXII of said Chap. 76.

You are therefore advised that it is a part of the duty of a county attorney to give his opinion and advice upon matters pertaining to proposed bond issues, etc., to boards of school trustees of his county, without fee or compensation other than his regular salary.

Yours very truly,

J. B. POINDEXTER,

Attorney General.