

**Treasurer, State—Corporate Surety Bonds Required By—
Approval Of.**

Where the state treasurer requires the giving of a bond, it is not necessary that a corporate surety bond be approved by a district judge.

November 20, 1919.

Mr. H. L. Hart,
State Treasurer,
Helena, Montana.

Dear Sir:

I am in receipt of your letter requesting my construction of Section 1 of Chapter 43 of the 1915 Session Laws in the following particular: "Is it necessary to secure the approval of the district judge on all bonds whether they be surety or personal bonds?"

Your letter has reference to the following portion of the section of the statute above referred to: "A bond or undertaking in the personal sum of \$5,000.00 running to the State of Montana, for the use of any person agreed, with sufficient sureties *to be approved by the judge of the district court*; such surety shall be at least two in number if personal sureties are furnished."

The approval of the sureties is no part of an undertaking and can add nothing thereto. The sole purpose is to have their sufficiency passed on by someone qualified to do so. The statute designates the judge of the district court as the officer to approve the sureties and seems to make no distinction between personal and corporate sureties.

There is a very good reason for having personal sureties approved by the judge, who has authority to make such investigation as he deems necessary to determine their fitness at the time of signing the undertaking.

There is no reason whatever why he should be in a better position to determine the qualifications of a corporate surety than is the State Treasurer. Under the provisions of Section 7148, surety companies are required to deposit with the State Treasurer certain securities for the benefit of the resident holders of their obligations and he is therefore much better qualified to pass upon their financial responsibility than is the judge of the district court in the county where the undertaking originates.

I am, therefore, of the opinion that in the case of corporate sureties, it is immaterial whether the judge of the district court approves them or not.

Respectfully,

S. C. FORD,

Attorney General.