

Joint School District—Schools—Bonds—Elections.

A school bond election called without petition is invalid and bonds issued pursuant thereto are not valid obligations of the district.

E. A. Peterson, Esq.,
County Attorney,
Bozeman, Montana.

My dear Mr. Peterson:

You have requested my opinion whether bonds issued by Joint School District No. 24 of Gallatin and Broadwater counties are invalid by reason of the fact that the election was held without the petition called for by Section 1252, Revised Codes, 1921. Bonds were issued for the purpose of altering and enlarging the present school building.

The Board contends that it had authority to call the election under the provisions of Section 1224, Revised Codes of 1921. Section 1224 was last amended by Chapter 196 of the Laws of 1919. Under this section the Board of Trustees is authorized to issue and negotiate on the credit of the district coupon bonds for any one or more of the purposes stated therein, one of which is for the purpose of building, altering, enlarging or repairing a schoolhouse, or acquiring by purchase one or more schoolhouses.

The resolution authorizing the bonds was required to be submitted to the electors of the district for their approval or rejection.

Section 1252, Revised Codes, 1921, is a part of Chapter 104 of the Laws of 1921. This section provides in part as follows:

"No election for the issuance of bonds of any school district, * * * shall be called except upon presentation of a petition therefor to the Board of School Trustees, * * * signed by at least twenty per cent of the qualified registered electors who are taxpayers upon property within said school district, * * * and whose names appear on the assessment-roll for the year next preceding such election, praying for the calling of said election;" * * *

It is a well settled rule of statutory construction that the last legislation enacted must be given effect where it is in conflict or inconsistent with previous enactments of the Legislature on the same subject. Chapter 104, Laws of 1921, (Section 1252, Revised Codes, 1921), was a later enactment than was Section 1224, and, where inconsistent with the former act, the former act must give way to the latter. The provisions of this latter section very clearly prohibit an election upon the proposition of issuing bonds by any school district, except upon a petition of the electors.

It is, therefore, my opinion that the provisions of this latter section are controlling and that an election called without petition is invalid and that bonds issued thereunder are not valid obligations of the district.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.