

Warrants—Bonds—Schools—Elections.

Section 1032, R. C. M. 1921, and section 1 of chapter 153, laws of 1923, may be harmonized, but to the extent of any repugnancy between them the former act, being a special one, will prevail.

Where warrants have been issued on the creation of a new school district they may be funded under the provisions of section 1032 without submission of the question to the electors of the district notwithstanding the provisions of section 1, chapter 152, laws of 1923.

Miss May Trumper,

August 5, 1925.

Superintendent of Public Instruction,
Helena, Montana.

My dear Miss Trumper:

You have submitted the following statement of facts and request an opinion thereon:

“Section 1032 of the revised codes of Montana, 1921, provides for the issuing of bonds by a newly-created district in the manner provided in section 1235. The legislature of 1923 repealed section 1235. Does section 1224 provide for the issuing of refunding bonds without submitting the question to the electors, or must bonds to retire interest-bearing warrants issued under the provisions of section 1030, be authorized by a vote of the electors?”

Section 1030, R. C. M. 1921, provides that upon the adjustment of the indebtedness between an old and a new school district warrants shall be issued and delivered to the trustees of the old district.

Section 1032 authorizes the school trustees to issue bonds in the manner provided by section 1035 to pay these warrants.

Section 1 of chapter 153, laws of 1923, amending section 1224, enumerates certain purposes for which school trustees are authorized to issue bonds on submission of the question to the voters of the district. Subdivision (e) of said section reads as follows:

“(e) For the purpose of providing the necessary funds to pay and redeem maturing, redeemable or optional bonds when there is not sufficient money to the credit of the school district applicable to the redemption and payment of said bonds.”

The section further provides:

“Nothing in this act shall be construed to prohibit the issuance of refunding bonds to take up outstanding indebtedness incurred before the passage of this act without first submitting the question to a vote of the taxpayers in said district.”

The effective date of chapter 153 was March 1st, 1924. If, therefore, the warrants to which you refer were issued before March 1st, 1924, there can be no doubt but that the provisions of chapter 154 have no

application and the trustees may proceed to issue bonds in the manner provided by section 1032 without submitting the question to the voters of the district.

If, however, the warrants which are sought to be funded were issued after March 1st, 1924, a close question is presented as to whether or not chapter 153 of the laws of 1923 governs. While the question is not free from doubt it is my opinion that the two acts (section 1032 and section 1 of chapter 153) can and should be construed together in such manner as to permit school trustees to issue bonds under section 1032 without submitting the question to the voters. Section 1032 is a special act relating solely to the issuance of bonds to take up outstanding *warrants* issued on the creation of a new school district. Section 1 of chapter 153 is a general law, and subdivision (e) thereof, above cited, provides for the issuance of funding bonds for the purpose of taking up outstanding *bonds* only. The act makes no mention of outstanding warrants.

The case is, in my opinion, a proper one for the application of the rule announced by our supreme court in *Stadler vs. City of Helena*, 46 Mont. 128, 139, wherein the court said:

“Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same general subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy: but to the extent of any necessary repugnancy between them, the special will prevail over the general statute.”

It is, therefore, my opinion that the two acts may be harmonized but that even in a case where warrants were issued after the effective date of chapter 153 recourse may still be had to section 1032 for the issuance of the particular bonds therein described without submitting the question to the electors.

Very truly yours,

L. A. FOOT,

Attorney General.