

Cities and Towns—Water Bonds—Bonds.

Water bonds issued by cities or towns may be retired either under the provisions of section 5039, R. C. M. 1921 or section 5283, R. C. M. 1921.

L. Q. Skelton, Esq.,
State Examiner,
Helena, Montana.

December 30, 1924.

My dear Mr. Skelton:

You have requested my opinion whether cities and towns should comply with section 5283, R. C. M. 1921, or with subdivision 64 of section 5039, with reference to the payment of water bonds.

Subdivision 64 of section 5039 was drawn in conformity with section 6 of article XIII of our constitution. This constitutional provision expressly authorizes the use of revenues derived from the water supply for the payment of a debt created by procuring the water supply.

Under this provision, and when so incurred, the revenue from water rental must be applied to the payment of the debt.

The supreme court of Montana in the case of Carlson v. City of Helena, 39 Mont. 82, 107, 108, held that section 5283 referred to by you is simply a provision additional to that provided for by the constitution for the payment of an indebtedness for acquiring a water supply where acquired by reason of the extension provided for by section 6, article XIII.

It is, therefore, my opinion that the two sections referred to by you are not in conflict but that payment under one or the other would depend on the facts of the particular case. If the water supply has been installed without the necessity of resorting to the method provided by section 6, article XIII, of extending the debt limit, then I see no objection to the payment of the bonds as provided for by section 5283.

Very truly yours.

L. A. FOOT,
Attorney General.