

School Districts—Funds—Division—Taxes.

Upon a division of a school district funds remaining after all debts are paid are divided on school population basis; uncollected special taxes are divided on the basis of property from which collected.

January 10, 1928.

Miss May Trumper,
Superintendent of Public Instruction,
Helena, Montana.

My dear Miss Trumper:

You have submitted to this office the letter of the county superintendent of Valley county, requesting information as to the division of funds where the district has been divided after the tax levy has been made and before taxes have been collected. The specific case is as follows:

After valuation had been received and the tax levy set for district No. 18, a new district was created out of two sections from district No. 4 and a part of district No. 18. The new district No. 19 having been created too late to receive its share of taxes, has no funds to carry on its school. District No. 18 has no indebtedness and wishes to have the amount in the sinking fund transferred to the general fund.

It is the duty of the county treasurer to transfer to the general fund all moneys remaining in the sinking fund after the payment of all outstanding bonds and interest thereon. (Section 32, chapter 147, laws of 1927.)

The division of indebtedness upon the creation of a new district is provided for by section 1028. This section provides that when a new district is formed from one or more old ones the school funds remaining to the credit of the old district, after providing for all outstanding debts, except debts incurred for building and furnishing school houses, shall be divided as follows: The basis for the division of the school fund shall be the school population, as shown by the last school census before the division of the district or districts occurred, and shall apply to such funds as remain to the credit of said old district or districts at the time of the creation of said new district.

All division of funds under this provision shall be made by the county superintendent, and when there are unpaid special taxes on the county tax-book belonging to a district at the date of its division, the county treasurer, upon being notified of such division by the county superintendent, shall retain all moneys received in payment of such special tax until the same shall be apportioned by the county superintendent, whose duty shall be to apportion said money quarterly between the fractions of the divided districts according to the location of the property on which said tax was levied.

This section seems clear and indicates that after the deduction of indebtedness the remainder of the funds on hand shall be divided on the basis of the school population.

The general county levy is, of course, distributed by the county superintendent on the same basis as to all existing districts. Uncollected special taxes are required to be apportioned on the basis of the territorial division, that is, all special taxes collected from the portion of the district cut off to form a new district after the new district has been created, shall be paid over to the new district.

Very truly yours,

L. A. FOOT,

Attorney General.