

### School Districts—Bonds—Redemption—Sinking Funds—Transfers.

Manner and method of using sinking fund of school districts for the redemption of school district bonds and the transfer of sinking funds to general funds stated in opinion.

Frank T. Hooks, Esq.,  
County Attorney,  
Townsend, Montana.

October 4, 1929.

My dear Mr. Hooks:

You state that School District No. 15 of Broadwater county has outstanding amortization bonds in the sum of \$3,900 with none of them delinquent, and that the district has in the bond sinking fund \$4,300 which is applicable to the payment of these bonds. The district also has outstanding registered warrants of the approximate amount of \$5,800 issued during the past years.

You inquire if the district can defer payment on these outstanding and registered warrants and order the county treasurer to invest the sinking fund in warrants that have been and will be issued during September, October and November of 1929. I further am informed that the amortization bonds are held by the State of Montana.

In Chapter 77 of the Session Laws of 1929, amending Section 30 of Chapter 147 of the Laws of 1927, the legislature enacted that where there is any available money in any school district bond sinking fund sufficient to pay or redeem one or more bonds held by the State of Montana, the county treasurer must apply such available money in payment of as many of such bonds as the same will pay. Where the bonds are held by someone other than the State of Montana and they contain an option to redeem and which bonds are not yet due but are redeemable or will become redeemable on the next interest due date, then the county treasurer must apply the bond sinking fund to the payment of as many of said redeemable bonds as the money in the sinking fund will redeem. Where the bonds are not yet due or redeemable and are not held by the State of Montana, then the county treasurer at the direction of the board of trustees must redeem as many of said bonds as the money in the sinking fund will redeem if the holder thereof is willing to surrender them upon their payment at par and accrued interest or at such reasonable premium as the board of trustees may feel justified in paying, not in any case exceeding 6%.

If the person holding these last mentioned bonds refuses to surrender them for payment upon the offer of the school district as aforesaid, then the sinking fund shall be invested by the county treasurer under the direction of the board of trustees in the warrants of the district, or in treasury certificates of the United States, or in interest-bearing bonds of the United States, or of the State of Montana, or of any county of the State of Montana, or in warrants of the State of

Montana, or of any county of said state; provided, that said sinking fund shall be invested only in securities that become due and will be paid in ample time before the funds are required for the payment of the bonds of the district.

It will be observed as to the case mentioned by you the provisions of the above law forbid the investment of the sinking fund of the school district in any of the warrants of the district or in other securities mentioned in the act for the reason that the bonds are held by the State of Montana, and under the terms of the act the bond sinking fund must be applied to the payment of the bonds held by the state whether they are due or not.

It is only when the bonds are held by someone other than the State of Montana and are not yet due or redeemable and the holder of such bonds refuses to surrender them for payment at par and accrued interest or at such a reasonable premium as the board of trustees may feel justified in paying, not in any case exceeding 6%, that the sinking fund may be invested in the bonds and warrants mentioned in the act.

After these bonds have been paid if any surplus remains then under Section 32 of Chapter 147, Laws of 1927, the surplus must be transferred to the general fund and this would then be applicable to the payment of registered warrants in their order of registration, and it could not be used to pay warrants issued subsequent to prior registered warrants when by doing so the prior registered warrants would remain unpaid.

Very truly yours,

L. A. FOOT,  
Attorney General.