

Bonds—State Treasurer—Payment—Coupons—School Districts—Cities and Towns—Counties.

Bonds issued by school districts, towns, cities, and counties, and held by the state are payable at the office of the state treasurer when paid before maturity, and state treasurer must cancel the bonds so paid in the manner provided by Chapter 3, Laws of 1929.

F. E. Williams, Esq.,
State Treasurer,
Helena, Montana.

November 22, 1929.

My dear Mr. Williams:

You have requested my opinion whether under the provisions of Chapter 3, Laws of 1929, the state treasurer can force the payment at his office of bonds issued by the various subdivisions of the State of Montana even though the provisions as set forth in the bonds provide for the payment at the office of that certain subdivision of the state; also "as to whether it is compulsory for the state treasurer to cancel by perforation, or otherwise, bonds and coupons sent out from this office under the provisions of this chapter."

Chapter 3, Laws of 1929, deals with the payment before maturity of school district, town, city and county bonds, and provides "payment and redemption of such bonds shall be made at the office of the state treasurer unless the bonds by their own terms and provisions are made payable at some other place and payment at his office would be disadvantageous to the redemptioner."

In the construction of a statute the intention of the legislature must be given effect, if possible, and in applying this rule it is clear that the intent of the legislature was that all school district, town, city and county bonds, when paid before maturity, should be paid and redeemed at the office of the state treasurer regardless of the terms of the bond as to place of payment unless the payment at the office of the state treasurer would be disadvantageous to the redemptioner. Any other interpretation of the legislative intent would nullify this provision of the statute.

School districts, towns, cities and counties being subdivisions of the state, the legislature has the power to provide how the bonds of such subdivisions shall be paid and redeemed and having provided that such

bonds when owned by the state and when paid before maturity shall be paid and redeemed at the office of the state treasurer unless disadvantageous to the redemptioner it is the duty of the treasurer of the subdivision issuing such bonds to forward the payment to the office of the state treasurer unless it can be shown that this would be disadvantageous to the redemptioner, and, in my opinion, the mere duty of forwarding the same would not constitute such a disadvantage as that contemplated by the statute. This would be no more disadvantageous than the remittance to the state treasurer for taxes collected.

I call your attention to Chapter 77, Laws of 1927 (Section 30) which requires the county treasurer to remit to the state treasurer moneys in the sinking fund of any school district when they are sufficient to redeem one or more school district bonds, and the state treasurer must cancel the bond and interest coupons so redeemed and return it to the county treasurer.

As to your second question, in my opinion the state treasurer must cancel any bond that is paid before maturity, under both Chapters 3 and 77 of the Laws of 1929. The purpose of this no doubt is to safeguard these bonds being put into circulation again. As they are paid before maturity if uncanceled they could get into the hands of innocent holders whereas a bond that has matured on its face is not the subject of ownership by an innocent holder when the transfer to him is made after the maturity of the bond.

Very truly yours,

L. A. FOOT,
Attorney General.