

Warrants—School Districts—Levies.

Warrants issued in excess of levies made and collections anticipated cannot be paid out of current levies for school purposes. Warrants issued within anticipated collections of levies made can be paid out of levies for current school year.

Mr. Levi Fossum,
County Treasurer,
Havre, Montana.

July 24, 1931.

My dear Mr. Fossum:

I have your request for an opinion regarding paying registered warrants of school districts. You wish to know whether the law has not contemplated that school districts should be conducted on a cash basis.

There has never been any provision for registering warrants of school districts except in anticipation of taxes levied but not collected.

In 1929 the legislature passed an act authorizing a levy to be made by school districts to cover the cost of conducting school for the period from July to November 30th of the succeeding school year. At the same session the legislature amended the law relating to the duties of the county treasurer and required him to keep in a separate fund any levy made to cover the expenses of schools for the succeeding school year, and further provided that no warrants should be paid out of this fund, either before or after its transfer, which were issued for the current school year. On July 1st of the year for which the levy was made he was required to transfer this money to the general fund of the school district. At the same time the provision for registering warrants in anticipation of taxes levied was still retained in the statute.

It is therefore impossible to say at this time that no warrant heretofore issued by a school district and registered can be paid out of funds collected for the current year excepting out of the particular fund which he is required to set aside. No doubt many warrants have been issued in good faith in anticipation of taxes levied but not collected and the warrants were not thereafter paid for the reason that the taxes became delinquent and there were no funds with which to pay them.

However, it is my opinion that so far as warrants have been issued in excess of anticipated revenues that they cannot be paid out of funds subsequently collected, for the reason that they were illegally issued.

You are therefore advised that insofar as warrants have been issued heretofore which were within anticipated receipts or tax levies and have been registered, they should be paid in the order of their registration, but cannot be paid out of any money levied and set aside for the succeeding school year. As to warrants illegally issued because of their being in excess of anticipated collections of levies made, they will have to await payment until provision has been made by special legislation to take care of them.

Very truly yours,

L. A. FOOT,

Attorney General.