

**County Deposits—Security—School Districts—Warrants
—County Commissioners.**

County commissioners are authorized to accept school district warrants as security for county deposits but are not bound to do so where there is any question as to their having been illegally issued.

Mr. K. W. MacPherson,
County Attorney,
Deer Lodge, Montana.

October 20, 1931.

My dear Mr. MacPherson:

I have your request for an opinion relative to some questions about school warrants.

This office has not held that warrants issued in previous years cannot be paid from taxes collected this year. It has held that warrants issued illegally in previous years cannot be paid out of taxes collected this year or at all until some provision is made for their payment.

You also wish to know whether warrants are legal security for county funds deposited in local banks. Chapter 49 of the laws of 1929

designates the classes of securities which may be accepted by the board of county commissioners as security for county deposits.

Section 1 of chapter 49 provides, in part, as follows:

“The Treasurer shall take from such banks such security as the Board of County Commissioners, in the case of a county, or the council, in the case of a city or town, may prescribe, approve and deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits on demand, together with the interest thereon.”

Simply because school district warrants are mentioned does not necessarily mean that the board of county commissioners are bound to accept them, particularly where there is some question as to their having been illegally issued.

Your other question is whether the county treasurer is required to see to it that the board of trustees of a county high school do not issue funds in excess of the various items of their budget.

Unless the county high school is required to budget as an agency of the county there is no provision of law requiring them to budget. They do make out what amounts to a budget when they make their estimates of funds necessary to carry on school. However, in my opinion, it is only necessary that the treasurer see to it that they keep within the total amount of their estimated expenditures as finally fixed and determined at the time the levy was made.

Very truly yours,

L. A. FOOT,

Attorney General.