

**Teaching Contracts — School Board — School Districts —
Budget—Anticipated Receipts.**

Maximum amount of budget for all purposes including teaching contracts made by the school board cannot exceed anticipated receipts from maximum levy and all other sources for the current school year.

Mr. D. M. Durfee,
County Attorney,
Philipsburg, Montana.

July 27, 1932.

My dear Mr. Durfee:

I have your request for an opinion in regard to the following matter:

The school board of school district number 1 of your county entered into written contracts with the teachers, fixing their salaries at specified sums for a definite period of time. The aggregate of all salaries under these contracts would amount to about \$13,600.

The school board, as provided by law, presented its budget to the budget board, estimating the sum of \$20,000 for salaries of teachers, expenses of janitors and other school expenses. It is found that the ten mill levy authorized by law under the assessed value of school district number 1 would produce a sum of about \$16,000. The budget was, therefore, disallowed by the budget board which allowed the district the sum of \$16,000 for expenses. The expenses for fuel, janitor, etc. will approximate the sum of \$6,400 and would only leave the sum of \$9,600 to be paid to teachers on salaries.

The question is as follows: If the sum of \$9,600 is expended and paid to teachers, is the board authorized under these conditions to issue warrants to pay for school teachers salaries and in contemplation of raising a larger fund the following year?

In my opinion, the school board has no authority to enter into contracts with teachers or with anyone else, the aggregate amount of which will exceed an amount which is the maximum sum that could be raised by taxation upon the assessable property of the district and estimated receipts from all other sources.

Billings vs. Bankers Bond Co., 251 S. W. 643;
Dayton vs. Dayton, 257 S. W. 1021;
Martin vs. Fisher, 291 Pac. 276;
Gentis vs. Hunt, 247 Pac. 358;
School District vs. Bath, 250 Pac. 1003.

All public officers, particularly school boards, are possessed of limited powers. They have only such as are given them by law and such as are necessarily implied from those expressly given. People dealing with the school board are bound to know the law and are bound to know the extent of the powers of the board with which they deal. (56 C. J. 545, sec. 648, Note 63.)

Lafayette Co. Board vs. Union School Furnishing Co.,
129 S. 824, 826.

Section 13 of chapter 146, laws of 1931, contains the following:

"If it shall appear to the budget board that the amount which may be raised for the General Fund of any school district by tax levies within the limits prescribed by law and which the board of county commissioners is authorized to levy, when added to the amount of the county superintendent's estimate of receipts for such district, as set forth in Section III of the preliminary budget, will not be sufficient to pay the full amount of estimated expenditures for all purposes to be paid from the general fund of the district, as set forth in Section I of said preliminary budget, then the budget board must reduce or strike out the amounts proposed to be expended for one (1) or more items, as shown in the preliminary budget, in such manner and to such extent that the total estimated expenditures, as shown in said Section I of the preliminary budget, will not exceed the total amount of such estimated receipts and proceeds of the lawful tax levies which may be made for the general fund of the district; provided, that for the purpose of determining for what particular items contained in the preliminary budget the amounts to be expended are to be reduced or stricken out, the budget board may call in and question the members of the board of trustees and the clerk of such district, and in reducing or striking out such amounts the budget board shall be guided, as far as possible by their wishes; provided, further, that if any contract has been entered into between the board and any teacher, principal or other person, by the terms of which contract such teacher, principal or other person has been employed for the school year for which the preliminary budget has been prepared, or when any teacher or principal, by reason of employment during the last school year, is entitled under the provisions of Section 1075, Revised Codes of Montana, 1921, as amended by Chapter 87, Session Laws, 1927, to retain his position and salary during the school year for which the preliminary budget was prepared, the board of school budget supervisors must not make any change in any item for salaries or wages which will reduce or in any manner affect the salary or wages of such teacher, principal or other person."

This last proviso must be construed with the section of which it is a part as well as with other relating statutes. The purpose of the section is to require the budget to be kept within maximum levies plus estimated revenues from the sources as determined by the county superintendent of schools and for this purpose other items (than salaries and wages of teachers) must be pared or eliminated, if necessary, but it cannot be given the construction of requiring the budget board to fix an amount beyond anticipated receipts and thus appear to sanction the issuance of illegal warrants.

It is therefore my opinion that the budget board is not authorized to fix an amount in the budget which will exceed anticipated receipts even though contracts have been entered into in excess of that amount.

Very truly yours,

L. A. FOOT,

Attorney General.