

Chapter 179, Laws of 1933, amends Section 1203, R. C. M. 1921. Section 1203 was originally enacted as part of Senate Bill 44, Section 1940B, page 134, Laws of 1897. It was amended by the 1901 Session, page 13, and again amended by Chapter 51, Section 2, Laws of 1907. It was carried forward as Section 1203, in the present codes, amended by Chapter 145, Laws of 1929, and again by Chapter 179, Laws of 1933.

This office has held that the reference to high schools in Chapter 179 of the last session was inadvertently made, as it is apparent that when the legislature enacted the High School Code in 1931, Chapter 148, as amended by Chapter 178 in 1933, it was the intention of the legislature to provide by that code for all the millage tax that high schools should have. See opinion No. 314, this volume.

By the history of section 1203 you will note that Chapter 179, Laws of 1933, does not provide for any new or additional levy, but a different method of distribution of an old levy. This levy of not to exceed 10 mills and the levy provided for by Section 1202, R. C. M. 1921, as amended by Chapter 123, Laws of 1929, are the only levies that may be made for the elementary schools without submitting the question to the electors of the district affected.

Opinion No. 321

Schools—School Districts—Levies —County Commissioners.

HELD: Chapter 179, Laws of 1933, does not permit the Board of County Commissioners to make an extra levy in excess of the ten mills, which the district may levy for the purposes of maintaining and operating the schools, without submission to the electors.

August 24, 1933.

You request an opinion on the following questions: "Does this new law providing for this reserve fund permit the Board of County Commissioners to make an extra levy in excess of the ten mills which the district trustees may levy for the purpose of maintaining and operating the schools? In other words, may the trustees use the ten mill levy for operation and maintenance, and the County Commissioners make an extra levy for the reserve fund set up under the new law?"