

**Opinion No. 91.****School Districts—High Schools—  
Budget—School Trustees—  
Warrants, May Not Be  
Post-Dated.**

HELD: Where there is a shortage of school funds the trustees of a school district have no authority to issue warrants dated as of July 1 following, anticipating that payment of such warrants will be provided for in the next school year's budget.

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April 27, 1935.

Mr. W. M. Black  
County Attorney  
Shelby, Montana

According to your letter of April 8:

"School District No. 1 (Sweet Grass) of this county, prepared their annual budget for their school expenses of maintenance and up-keep for the school year of 1934-35 in due time and in legal manner in 1934. Certain sums of money were raised by the lawful tax therefor levied; that said board of trustees, believing that said sums of money so raised by said tax levies would operate their high school in District No. 1 from September 1934 until the close of school of a nine-month term in 1935.

"Now at this time the County Treasurer notifies and informs said Board of Trustees that there is not sufficient moneys to their credit to continue to meet their current high school expenses and maintenance for the balance of this school year, this by reason of the fact that prior to the commencement of this school year in September 1934, there were certain unpaid outstanding registered warrants against said District and that said warrants have been paid out of said levies thereby leaving said school district short of funds to con-

tinue their high school for the balance of this school year.

"The question therefore arises how or by what methods can said district continue their high school for the balance of this school year?"

As a solution to this problem you state that it is proposed to keep this high school open for the remainder of this school year and to pay teachers' salaries and other necessary current school expenses, amounting to approximately \$900.00, with warrants of said school district "dated as of July 1, 1935" and to provide for the payment of such warrants "in next school year's budget."

You then ask for our opinion "as to whether or not the said trustees may issue said warrants dated as of July 1, 1935, to cover this school year's deficit is legal."

It is not clear to us from your letter if the expenditures have equaled the amount appropriated under the budget, or if the difficulty is caused by failure to collect anticipated revenues.

In either event we are unable to find any provision of law authorizing the procedure outlined in your letter and some other way out of the situation must be found. (*State v. McGraw*, 74 Mont. 152, 240 Pac. 812; *Farbo v. School District No. 1 of Toole County*, 95 Mont. 531, 28 Pac. (2) 455.)

If the district wishes to expend funds in excess of the amount appropriated in the annual budget it is faced with this forbidding language of the legislature: "Expenditures made, liabilities incurred or warrants issued in excess of any of the final budget detailed appropriations, as originally determined or as revised by transfer, as hereinafter provided, shall not be a liability of the district or of the county high school and no money of the district, or county high school, shall ever be used for the purpose of paying the same." (Chap. 178, Laws of 1933.)

If, on the other hand, there is merely a shortage of funds and the proposed expenditures do not exceed the amounts appropriated, such expenditures may be paid with registered warrants as provided by Section 964, R. C. M. 1921, amended by Chapter 82,

Laws of Montana, 1925, and Section 1012, R. C. M. 1921, as amended by Chapter 162, Laws of Montana, 1933, and it will not be necessary to resort to the plan suggested in your letter. (See *Farbo v. School District*, supra, and Opinions Nos. 228, 264, 288 and 432, issued by this office, and Volume 14, Reports and Official Opinions of Attorney General, pages 150, 172, 175, 177, 227, 314 and 316.)