

My Dear Mr. Choate:

The Board of Trustees of Custer County High School is desirous of establishing a Junior College in accordance with the provisions of Chapter 158 of the Laws of 1939. You have requested an opinion as to the application of that part of Section 4 of said Chapter 158 of the Laws of 1939 that declares that elections held under the terms of the act, "shall be called, noticed, held, canvassed and returned in the manner provided by law for the submission in such county or school district of the question of a bond issue for the purpose of building, enlarging, altering or acquiring by purchase a school house and the purchase of necessary lands therefor."

Section 1224.1, Revised Codes of Montana, 1935, authorized the board of trustees of any school district to issue and negotiate bonds on the credit of the school district:

"* * * (a) For the purpose of building, enlarging, altering, repairing or acquiring by purchase one or more school houses in said district; furnishing and equipping the same and purchasing the necessary lands therefor."

The language of this Section is very similar to that quoted from Section 4 of Chapter 158 of the Laws of 1939 and apparently is the statute referred to therein. The procedure for the conduct of the election is prescribed by Sections 1224.10-1224.15, Revised Codes of Montana, 1935. Provision is made in Section 1224.10 for the appointment of "three electors of the district who are qualified to vote at such election to act as judges of election" and for a notice of election which "shall designate some certain school house in said district" which seems to indicate that but one place of election is to be designated. Yet another provision of the same section relating to posting of the notice of election declares "in incorporated cities and towns at least one notice must be posted at each voting place designated for such election" so that it is evident that, in incorporated cities and towns at least, the Legislature contemplated more than one voting place and inferentially judges would be selected for each voting place.

Opinion No. 56.

Schools and School Districts—Junior Colleges—High Schools—Counties.

HELD: 1. Elections for the establishment of a junior college in high school districts, must be held as provided by Sections 1224.10-1224.15.

2. Such elections in a county high school district are governed by Sections 1262.12-1262.13.

April 29th, 1939.

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However, the provisions of Section 1262.12, Revised Codes of Montana, 1935, must also be taken into consideration. This section sets forth the procedure for the submission of the question of issuance of bonds "for the purchase, or erection of a high school building or buildings and/or for the repairing, remodeling, or enlarging thereof, and/or for the purchase of equipment thereof, and/or for the purchase, erection and/or equipment of a high school dormitory or dormitories, or gymnasium, and/or for the purchase of a suitable site or sites for such buildings—" by the board of trustees of a county high school. While the language of this Section does not so closely resemble that of Section 4 of Chapter 158 of the Laws of 1939 as that of Section 1224.1, it has substantially the same meaning. The election required by Section 1262.12 is to be held "in the manner otherwise provided by law for the submission of the question of other county bonds." (Section 1262.13, Revised Codes of Montana, 1935.)

It is my opinion that Section 1224.1, et seq. relate to school districts only and the election procedure prescribed by those sections is applicable only to high school districts so that when a school district maintaining a county high school desires to establish a Junior College in accordance with the provisions of Chapter 158 the election must be held in the manner set forth in Sections 1224.10-1224.15. But Sections 1224.10-1224.15 are awkward and inequitable when applied to county-wide elections, hence it is my opinion that county high school trustees desiring to establish a Junior College must hold elections as prescribed by Sections 1262.12 and 1262.13 or elections in the same manner as provided for the issuance of county bonds. The procedure for such elections is found in Sections 4630.7-4630.14, Revised Codes of Montana, 1935.