

No. 249

SCHOOLS—TRANSPORTATION OF SCHOOL CHILDREN—BOARDS OF TRUSTEES—LIABILITY INSURANCE—CARRIERS

Held: Where board of school trustees in its sound discretion determines it is necessary and for the best interest of the district, school children involved and as a part of consideration of transportation, trustees may either furnish or pay premium on liability insurance covering privately owned bus so used in transporting such school children.

September 23, 1941.

Mr. William F. Shallenberger
County Attorney
Sanders County
Thompson Falls, Montana

Dear Mr. Shallenberger:

You have submitted to this office the following question:

Where school trustees have made contracts with individuals to transport school children of the district and where the contract provides the district is to pay the premium on liability insurance on the

privately owned busses, is such charge for premium a proper charge against the district and may the county treasurer pay warrants drawn by the district in payment thereof?

Chapter 152, Laws of 1941, provides in part as follows:

"Section 1. Boards of Trustees to Furnish Transportation. The board of trustees of any school district or county high school within the State of Montana shall have the power to furnish transportation to and from school for all pupils residing within their district, who are enrolled in the public schools of their district, and who reside three (3) or more miles distant, over the nearest practical route, from a public elementary or secondary school. Provided, that, school boards may in lieu of transportation furnish supervised correspondence study, supervised home study; room, rent, or board; but any sum expended in lieu of transportation shall not exceed the per pupil cost set up in schedule in Section 7 of this act.

"Section 3. School Board May Operate Busses or Contract for Transportation of Pupil. The board of trustees shall have the power to purchase, or rent and provide for the upkeep, care and operation of school busses; or to contract and pay for the transportation of eligible pupils, such contracts to run for terms not to exceed three (3) years."

"Section 5. Contracts for Transportation. * * * Except that when transportation is furnished by a carrier, the contract shall be signed by the district clerk, the chairman of the school board and by the carrier. One copy must be filed in the office of the county superintendent of schools, one copy retained by the district clerk and one copy given the person furnishing such service. The county superintendent of schools shall send a notice to the county treasurer, immediately after receiving a copy of each contract, which notice shall acquaint the county treasurer with the names of the contracting parties, the number of the district paying transportation, and the amount of the contract. The county treasurer shall not honor any warrant drawn in excess of the total monthly, or six-weeks transportation payment, allowed by contract, and positively shall honor no warrant drawn upon a district which does not hold a contract. * * * Before contracts are awarded to a common carrier, the board shall secure bids, by publishing a call for bids in three (3) issues of a newspaper having general circulation in the county, during a period of twenty-one (21) days prior to the letting of the contract; provided, that, in the event there is no newspaper published in the county, three (3) notices, calling for bids, shall be posted in three (3) separate and conspicuous places in the district. The board shall let the contract to the lowest responsible bidder; provided, that the board shall have the right to reject any and all bids.

"Section 6. Requirements as to Busses, Drivers and Operation of School Busses. Any person or persons having a contract to transport school children, or any school district owning and operating its own school busses, shall comply in every respect with the provision of Chapter 110 of the political code of the Revised Codes of Montana, 1935; provided, that, the board of trustees may require added safeguards, by supplementing in the contract the provisions of said Chapter, with additional regulations relating to bus specifications, age of drivers, liability insurance and operating speed; provided, that, a district, owning and operating its own bus or busses, must carry personal liability insurance in the amount of not less than ten thousand (\$10,000.00) dollars if only one (1) bus is operated, or an aggregate blanket amount of not less than fifteen thousand (\$15,000.00) dollars, if two (2) or more busses are operated."

It must be observed Section 1, supra, grants authority to the board of trustees of any school district or county high school to furnish transporta-

tion to and from school for all pupils residing within the district who are enrolled in the public schools of the district and who reside three or more miles from a public elementary or secondary school.

Section 5 provides for the contract of transportation, how the contract shall be signed and the distribution of the copies thereof, the notice by the county superintendent to the treasurer of the amount of the contract, the procuring of bids and the publication or posting thereof prior to the letting of the contract.

Section 6 then provides the person having a contract shall comply with Chapter 110 of the political code of the Revised Codes of Montana, 1935, as amended by Chapter 16, Laws of 1939. It also provides the board of trustees may require added safeguards by supplementing in the contract, among other things, additional regulations relating to bus specifications, age of driver (must be at least 21 years of age, Chapter 16, Laws of 1939), liability insurance, operating speed and such other related matters.

It is apparent that, after the board of trustees has determined to furnish transportation, it may in its discretion contract with a bus driver as specified in said act, and that many times it may be necessary, in order to have liability insurance on a privately-owned bus so contracted and as a part of the consideration for the transportation of the school children, for the board to furnish or pay the premium on the liability insurance policy. In such case or cases, it is my opinion that, in the event the board of trustees in its sound discretion finds that such procedure is necessary and for the best interest of the district, for the best interest and safety of the school children involved and as a part of the consideration of the transportation, such a contracted obligation of the district is within the power and authority of the board of school trustees and a proper charge against the district under said act.

Sincerely yours,

JOHN W. BONNER
Attorney General