

No. 486

COUNTIES—CITIES—AIRPORTS—BOND ELECTION

Held: Vote of taxpayers required to authorize county and city to acquire land for airport, where permitted levy is not sufficient to pay purchase price of land, and incurring of indebtedness necessary.

September 21, 1942.

Mr. E. Gardner Brownlee
County Attorney
Ravalli County
Hamilton, Montana

Dear Mr. Brownlee:

You have stated the County of Ravalli and the City of Hamilton are contemplating the joint purchase of land, to be used as an airport, under authority granted by Chapter 54, Laws of 1941; further, the permitted levy of taxes will not produce sufficient revenue in any one year to pay the purchase price of the land as they fall due.

In this connection, you ask the opinion of this office whether the county and the city can legally enter into a contract to make payment on the installment basis.

You advise, that if an annual levy is made, it will produce sufficient revenue to pay for maintenance and discharge installment payments on the purchase price of the land as they fall due.

Section 4 of Chapter 54, Laws of 1941, aforesaid, permits the annual levy of taxes for the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of said chapter, and provides:

"That if it be found that the levy hereby authorized will be insufficient for the purposes herein enumerated, the commissioners and councils acting are hereby authorized and empowered to contract an indebtedness on behalf of such county, city or town, as the case may be, upon the credit thereof by borrowing money or issuing bonds for such purposes, provided that no money may be borrowed and no bonds may be issued for such purpose until the proposition has been submitted to the taxpayers affected thereby, and a majority vote be cast therefor."

It is to be noted the specific provisions of the section under examination are that if the levy is insufficient, the commissioners and councils "are hereby authorized and empowered to contract an indebtedness . . . by borrowing money or issuing bonds . . ."

The words which are emphasized are a limitation on the powers conferred on the county and city by this chapter, and would preclude the right to incur an indebtedness in a manner other than that specifically provided. In the question submitted by you, the incurring of an indebtedness for the purchase price of the land to be paid at a future date, would be without authority conferred by the statute.

It is, therefore, the opinion of this office, under the facts covered by your request, the proposition must be submitted to a vote of the taxpayers affected.

Sincerely yours,

R. V. BOTTOMLY
Attorney General