

Dear Mr. Roe:

You have requested my opinion concerning the necessity of holding an election to use the money in the building fund of a consolidated high school district for the construction of a school auditorium. The fund in question is not composed of moneys realized from taxes collected for the current year. You have also asked if all the qualified voters in the district are eligible to vote although the district comprises a portion of two counties.

I agree with your opinion that the matter is covered by Section 1262.83, Revised Codes of Montana, 1935, as amended by Chapter 207, Laws of 1939, which provides in part:

"The power of the board . . . to build, purchase or otherwise acquire, a high school building, high school dormitories, high school gymnasiums, or other buildings necessary for the high school . . . shall be exercised only at the direction of a majority of the qualified electors of the county in the case of a county high school, or of the district in the case of a district high school, voting at an election to be called by the board, and otherwise noticed, conducted, canvassed and returned in the same manner as the annual election of school trustees in school districts of the first class . . ."

It is to be noted the qualified electors of a district high school are eligible to vote under the above portion of Section 1262.83, as amended.

It is therefore my opinion that it is necessary to hold an election to authorize the board of trustees of a consolidated high school district to use the money in the district building fund which fund is not composed of taxes collected for the current year, for the construction of a school auditorium.

It is also my opinion that all the qualified voters in the district are eligible to vote at the election although the district comprises a portion of two counties.

Sincerely yours,
R. V. BOTTOMLY
Attorney General

Opinion No. 202.

**Schools and School Districts—Elections
—School Building Fund—Board of
Trustees.**

Held: It is necessary to hold an election to authorize the board of trustees of a consolidated high school district to use the money in the district building fund which fund is not composed of taxes collected for the current year, for the construction of a school auditorium. All the qualified voters in the district are eligible to vote at the election although the district comprises a portion of two counties.

April 15, 1944.

Mr. Frank I. Roe
County Attorney
Silver Row County
Butte, Montana