

"No board of trustees shall let any contract for building, furnishing, repairing, or other work, for the benefit of the district, where the amount involved is two hundred fifty dollars, or more, without first advertising in a newspaper published in the county for at least two weeks, calling for bids to perform such work. . . ."

It would appear that the above prohibition applies to school buildings, furnishings for the same and work and labor. A school bus would not come in any of the classes enumerated in the statute. Also, section 1016 was enacted prior to the present transportation act, Chapter 152, Laws of 1941, and its amendments. In other words, the purchase of a school bus was not possible at the time section 1016 became a law and its terms are not broad enough to prohibit the purchase of a bus without first calling for bids.

Section 3 of Chapter 152, Laws of 1941, provides:

"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."

It is to be noted that a contract for transportation cannot exceed three years but no limitation is placed on the manner of purchase of school busses. A broad power is granted for the purchase of school busses and the manner of purchase is not designated.

Section 1022, Revised Codes of Montana, 1935, grants to school districts the power to purchase personal property for school purposes. Section 1015, Revised Codes of Montana, 1935, as amended, defines the duties of school trustees, but neither section limits the power to contract over a period of years. In *Bennett v. Petroleum County*, 87 Mont. 436, 288 Pac. 1018, our Court considered the validity of a contract entered into by a county which would cover a period of four years and held that the fact the county obligation would extend beyond the

Opinion No. 60

**School Districts—School Bus,
Purchase of—Conditional
Sales Contract.**

Held: 1. A school district is not required to advertise for bids in the purchase of a school bus, although it may do so where the trustees deem it for the best interests of the district.
2. A school district may purchase a school bus under a conditional sales contract and pay for the same over a period of three years.

August 20, 1947

Mr. J. M. Watts
County Attorney
Musselshell County
Roundup, Montana

Dear Mr. Watts:

You have submitted for my consideration the following questions:

1. Must a school district advertise for bids when the district purchases a school bus?
2. May the board of trustees of a school district purchase a school bus on a conditional sales contract payable over a period of three years?

In answering your first question it is necessary to consider Section 1016, Revised Codes of Montana, 1935, which provides in part:

term of office of members of the existing board would not make the contract invalid.

In *Arnold v. Custer County*, 83 Mont. 130, 269 Pac. 396, the Court stated:

“When the statutes require an act to be done by a county official or county officials and do not provide a method of doing it, any reasonable and suitable means may be adopted.”

This rule would have application in the problem here presented, and the purchase of a bus under a conditional sales contract would appear to be a reasonable method.

Section 1019.14, and Section 1263.14, Revised Codes of Montana, 1935, limit the expenditures for any fiscal year to the amount appropriated for that year.

The conditional sales contract proposed would fix a definite amount payable each year, and so long as the annual installments are included in each budget these sections would furnish no obstacle to such a three year term contract.

The amount of the annual installments to be paid for the purchase of a bus must be included in Section I of the General Fund Expenses, for elementary schools, under the item of “New equipment—Not financed from sale of bonds,” Section 1019.3. In the case of High Schools, payment should be made under the item “New Equipment” which is found in the “Capital Outlay” Account, Section 1263.2, Revised Codes of Montana, 1935. There is no authority for the purchase of a bus by the issuance of bonds.

It is, therefore, my opinion:

1. A school district is not required to advertise for bids in the purchase of a school bus, although it may do so where the trustees deem it for the best interests of the district.

2. A school district may purchase a school bus under a conditional sales contract and pay for the same over a period of three years.

Sincerely yours,
R. V. BOTTMLEY,
Attorney General