

Opinion No. 128

**Schools and School Districts—Consolidation of High School Building
Districts—Distribution of Funds Realized From Sale
of High School Building.**

Held: 1. High School Building Districts may be consolidated by virtue of Section 1, Chapter 130, Laws of 1949, and the procedure to be followed is found in Section 75-4602, Revised Codes of Montana, 1947.

2. Surplus funds realized from the sale of a high school constructed with the proceeds of bonds issued by a High School Building District should be allocated to the component ele-

mentary school districts of the High School Building District if a high school is no longer operated within the High School Building District and the subsequent consolidation of the High School Building District would not affect such distribution.

September 30th, 1950.

Mr. Robert E. Purcell
County Attorney
Garfield County
Jordan, Montana

Dear Mr. Purcell:

You have requested my opinion concerning the procedure to be followed in consolidating two High School Building Districts.

Also, you have asked what disposition should be made of the surplus remaining after the payment of debts realized from the sale of a high school building and dormitory which were constructed from funds from a bond issue of a High School Building District.

In answering your first question, it is necessary to consider Section 1, Chapter 130, Laws of 1949, which reads as follows:

"In any County which has been divided into High School Building Districts, at the request of any High School Board of Trustees, the commission, provided for in Chapter 275, Laws of 1947, may, in accord with the procedure provided in said chapter, alter the boundaries of said districts or re-divide the County into a different number of high school districts, provided that such alteration or redivision may not be done within three years from the original division or the last alteration of boundaries and last redivision."

The above quoted portion of Chapter 130 grants the authority for the redivision of a County into a different number of high school districts. Section 75-4602, Revised Codes of Montana, 1947, which was formerly Section 2 of Chapter 275, Laws of 1947, fixes the manner of dividing a County into High School Building Districts which procedure can be used for any subsequent alteration of boundaries of high school districts.

In Opinion No. 121, Volume 17, Report and Official Opinions of the Attorney General, this office held that the only statutory method of consolidation of high school districts was to be found in Section 1034, Revised Codes of Montana, 1935, which is now Section 75-1813, Revised Codes of Montana, 1947. However, the holding in that Opinion no longer has application due to the enactment of Chapter 130, Laws of 1949, which specifically deals with the manner of redividing a County or altering the boundaries of high school districts. In the case of *Langston v. Currie*, 95 Mont. 57, 26 Pac. (2d) 160, the court said:

"Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent Legislative policy, but, to the extent of any necessary repugnance between them, the special will prevail over the general."

Your second question is not answered by any specific statutory provision. The disposition of funds realized from the sale of a County High School is covered by Section 75-4127, Revised Codes of Montana, 1947, and the distribution of remaining funds of an abandoned school district is allocated under Section 75-1522, Revised Codes of Montana, 1947. In the case of *State v. Branderburg*, 107 Mont. 199, 82 Pac. (2d) 593, the distribution of funds realized from the sale of an obsolete building which had been acquired for the use of the County High School was made to the County High School account. The reasoning in the case was based on the source of the money and the court held that the purchase money having come from the distributive share of the County-wide High School levy the proceeds of the sale of the building should be the property of the County High School. Applying the reasoning of that case to the facts presented here the conclusion must be reached that the funds realized from the sale of the building should be distributed to the general funds of the elementary schools comprising the High School Building District as it was the area within the High School Districts which paid off the bond issue. However, the obligations and debts of the High School District must be first paid, before distribution of any surplus to the component elementary districts.

It is therefore my opinion:

1. High School Building Districts may be consolidated by virtue of Section 1, Chapter 130, Laws of 1949, and the procedure to be followed is found in Section 75-4602, Revised Codes of Montana, 1947.

2. Surplus funds realized from the sale of a High School constructed with the proceeds of bonds issued by a High School Building District should be allocated to the component elementary school districts of the High School Building District if a high school is no longer operated within the High School Building Districts and the subsequent consolidation of the High School Building District would not affect such distribution.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.