

the services furnished. The school districts would be participating purchasers in the water users' association.

The case of *Farmers State Bank v. City of Conrad*, 100 Mont. 415, 47 P. (2d) 853, approved the execution of such contracts by a city, and the reasoning in the case would apply to school districts. An opinion of this Office, Opinion No. 238, Vol. 18, Report and Official Opinions of the Attorney General, approved such contracts for school districts and I agree with this opinion.

A high school district is to be distinguished from a school district as a high school district has limited powers. Section 75-4605, Revised Codes of Montana, 1947, as amended, states:

"The high school districts created under the provisions of this act, are for construction, repair, improvement and equipment purposes only and it shall not be construed so as to interfere with or repeal any existing laws relating to the maintenance or operation of high schools within the county."

This is a specific limitation on the powers of a high school district and it is an express recognition that the law for the government of high schools as found elsewhere is not altered or repealed. Section 75-4101, Revised Codes of Montana, 1947, defines a high school as follows:

"A high school is a public school as defined in the general school laws and is an integral unit of the public school system which comprises some one or more of the grades of school work intermediate between the elementary schools and the institutions of higher education of the state of Montana, and which has its own administrative head and corps of teachers under the direct supervision either of a district superintendent and the board of trustees of a school district, or of a county high school principal and board of trustees of such county high school as the case may be."

This statute places the control and supervision of the high school in the board of trustees of the school district maintaining the high school or in the board of trustees of the county high

#### Opinion No. 54

##### Schools and School Districts—High School Districts—Contracts for Water and Sewer—School Trustees.

**Held:** 1....The board of trustees of a school district maintaining a high school and the board of trustees of a county high school have the power to enter into contracts with the State Water Conservation Board a water users' association for the furnishing of water and sewerage disposal for the schools of the district and the county high school.

2. A high school district, acting through its board of trustees, does not have the power or authority to enter into a water and sewerage disposal contract.

December 29, 1951.

Mr. M. L. Parcels  
County Attorney  
Stillwater County  
Columbus, Montana

Dear Mr. Parcels:

You have requested my opinion concerning the authority of a high school district and a school district to enter into water and sewerage service contracts with the State Water Conservation Board and a water users' association.

The contracts provide for annual payments over a period of years for

school. This is not altered by the law authorizing the establishment of high school building districts as Section 75-4601, Revised Codes of Montana, 1947, as amended, provides in part:

"In any county having a high school, the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act."

The recent case of Rankin v. Love, — Mont. —, 232 Pac. (2d) 998, raises a doubt as to the validity of high school building districts, yet such is not material here as in any event a high school district does not have the authority, acting through its board of trustees, to enter into a contract pertaining to the operation of a high school.

This does not mean the trustees of a district maintaining a high school, or the board of trustees of a county high school, cannot enter into such a contract. In fact they have such power.

It is therefore my opinion:

1. The board of trustees of a school district maintaining a high school and the board of trustees of a county high school have the power to enter into contracts with the State Water Conservation Board and a water users' association for the furnishing of water and sewerage disposal for the schools of the district and the county high school.

2. A high school district, acting through its board of trustees, does not have the power or authority to enter into a water and sewerage disposal contract.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General