

Opinion No. 27**Schools and School Districts—
Bonds—Limits of Indebtedness
of School Districts and High
School Districts**

HELD: 1. In determining the maximum amount for which a high school district may become indebted, the proposed indebtedness must be apportioned among the common school districts comprising the high school on a proportionate valuation basis. If such proposed indebtedness will result in any one common school district's exceeding five per cent of its valuation when the amount so apportioned is added to the outstanding indebtedness of the common school district, then the amount of the proposed indebtedness of the

high school district which causes the common school district to exceed five per cent of the value of the common school district is invalid.

2. In determining the limitation of indebtedness of a common school district, the proportionate share on a valuation basis of the outstanding indebtedness of the high school district must be deducted from five per cent of the valuation of the common school district, and the amount remaining is the limit of additional indebtedness which may be incurred by such common school districts.

July 13, 1955.

Mr. Charles W. Jardine
County Attorney
Powder River County
Broadus, Montana
Dear Mr. Jardine:

You have requested my opinion as to whether the maximum amount a high school district may become indebted is five per cent of the valuation of the property of the high school district irrespective of the debt of any of the component common school districts. You have also asked if the common school district may become indebted to the full five per cent of the valuation of the property in the district when there is outstanding indebtedness incurred by the high school district of which the common school district is a part.

In answering your questions it is first necessary to consider the three taxing units which may issue bonds for high schools. County bonds may be issued for the construction of county high schools as is provided in Section 75-4112, R.C.M., 1947. In *Hamilton v. the Board of County Commissioners*, 54 Mont. 301, 169 Pac. 729, it was held that county bonds issued for the purpose of constructing a county high school are obligations of the entire county. In *State ex rel. Henderson v. Dawson County*, 87 Mont. 122, 286 Pac. 125, it was again recognized that bonds issued by a county for the construction of a county high school are county obligations and that a county in issuing such bonds lends the credit of the county for high school purposes. This case specifically stated that outstanding

county high school bonds do not limit school districts in the incurring of indebtedness. There is no statutory method now for the establishment of county high schools.

High school districts are established under the provisions of Chapter 46, Title 75, R.C.M., 1947, and a county may be divided into one or more high school districts. From your letter it appears that your county has been designated as one high school district.

Section 6 of Article XIII of the Montana Constitution, limits the indebtedness which may be incurred by school districts to five per cent of the value of the taxable value of the district.

The procedure for issuing high school district bonds is the same as that for the issuance of school district bonds. Section 75-4604, R.C.M., 1947, makes all the laws pertaining to the issuance of bonds by school districts applicable to the issuance of bonds by school districts. Section 75-4603, R.C.M., 1947, states that the limitation for indebtedness for high school districts is not reduced by the indebtedness of the common school districts. In *House v. School District No. 4*, 120 Mont. 319, 184 Pac. (2d) 285, this provision was held constitutional. A contrary conclusion was reached in *Rankin v. Love*, 125 Mont. 184, 232 Pac. (2d) 998. The rule that is now controlling was announced in *Wright v. Browning High School District*, 125 Mont. 495, 240 Pac. (2d) 862, where the court held that high school districts have the authority to incur indebtedness so long as such indebtedness, when apportioned among common school districts in proportion to the assessed valuation of the property in each and this part added to the existing indebtedness of the common school districts respectively, did not bring the debt of any of the latter in excess of the limit prescribed by Section 6, Article XIII of the Montana Constitution.

The converse of the above rule is also true in determining the limitation of indebtedness of a common school district. In ascertaining the possible limit of indebtedness of a common school district the proportionate share of outstanding indebtedness of the high school district must be deducted from the amount

of additional indebtedness which may be incurred by such common school district.

It is therefore my opinion that in determining the maximum amount for which a high school district may become indebted the proposed indebtedness must be apportioned among the common school districts comprising the high school on a proportionate valuation basis. If such proposed indebtedness will result in any one common school district's exceeding five per cent of its valuation when the amount so apportioned is added to the outstanding indebtedness of the common school district, then the amount of the proposed indebtedness of the high school district which causes the common school district to exceed five per cent of the value of the common school district is invalid.

It is also my opinion that in determining the limitation of indebtedness of a common school district, the proportionate share on a valuation basis of the outstanding indebtedness of the high school district must be deducted from five per cent of the valuation of the common school district, and the amount remaining is the limit of additional indebtedness which may be incurred by such common school districts.

Very truly yours,
ARNOLD H. OLSEN
Attorney General