

**Opinion No. 27**

**SCHOOLS AND SCHOOL DISTRICTS; Finances; warrants; recovery for lost warrant; method of—SCHOOLS AND SCHOOL DISTRICTS; Warrants; bond required for duplication of lost warrant— Sections 16-2003, 75-1726, 75-1727, 75-4531, 75-4532 and 79-109, Revised Codes of Montana, 1947**

**Held: A duplicate warrant to replace a lost or destroyed warrant may be issued by the trustees of a school district if the payee or assignee of the warrant deposits with the county treasurer a bond to indemnify the school district from any loss.**

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September 28, 1959

Mr. William J. Speare  
County Attorney  
Yellowstone County  
Courthouse  
Billings, Montana

Dear Mr. Speare:

Your office has requested my opinion as to whether a school district may issue a duplicate warrant to replace a lost warrant. You also asked if an assignee of a warrant which has been lost may recover the amount of the warrant.

Section 75-1726, RCM, 1947, provides that a school district clerk must issue all warrants and that they be issued in triplicate. One of the copies of a warrant is mailed to the county treasurer immediately after the original has been drawn and under Section 75-1727, the treasurer enters the amount of the warrant under the proper item of appropriation. A similar procedure is provided in Sections 75-4531 and 75-4532 for warrants drawn against a high school budget. No provision is made in the school laws for the issuance of a duplicate warrant for a lost warrant.

Such is not the situation in regard to a lost county warrant. Section 16-2003, RCM, provides for the issuance of a duplicate warrant upon giving a bond to indemnify the county as required in Section 16-2003,

RCM, 1947. Also, under Section 79-109, RCM, 1947, the state auditor is authorized to issue a duplicate warrant after receiving a bond whenever a state warrant has been lost or destroyed.

The trustees of a school district have broad discretionary powers in handling the affairs of the district (Young vs. Board of Trustees, 90 Mont. 576, 4 Pacific 2nd 725). It would not be within the powers of the trustees to issue a duplicate warrant without protecting the interests of the district. However, the method of securing adequate protection is found in the provision for the issuance of duplicate county and state warrants which is the requirement of an indemnification bond. By adopting this procedure, the trustees could issue a duplicate warrant to replace a lost warrant and protect the funds of the school district. Such bond should be filed with the county treasurer so as to be readily available if required.

It is, therefore, my opinion a duplicate warrant to replace a lost or destroyed warrant may be issued by the trustees of a school district if the payee or assignee of the warrant deposits with the county treasurer a bond to indemnify the school district from any loss.

Yours very truly,  
FORREST H. ANDERSON  
Attorney General