

HIGH SCHOOL DISTRICTS - Maximum indebtedness to be incurred by; taxation. Section 6, Article XIII, Montana Constitution; sections 84-401, 75-3902 and 75-3724, R.C.M. 1947.

HELD: The maximum indebtedness to be incurred by a high school district must be computed from that value disclosed by the last assessment roll in the district; i.e., from the assessed valuation of the taxable property.

September 2, 1970

Mr. Allen LeMieux
Jefferson County Attorney
Boulder, Montana 59632

Dear Mr. LeMieux:

You have requested my opinion on the following question: What is the maximum indebtedness that a high school district may incur under the current debt limitations imposed by Montana law?

Section 6, Article XIII of the Constitution of Montana provides, in part:

“No . . . high school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum (5%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness,
.”
. . .

You have suggested that the “value of taxable property” as used in section 6, Article XIII above, should be interpreted to mean the full cash value. This would allow high school districts to incur indebtedness up to five per centum (5%) of the full cash value of the taxable property within the district. You have cited **State ex rel. Galles v. Board of County Commissioners, et al.**, 56 Mont. 387, 185 Pac. 456, as supporting this contention.

While it is true that the court in **Galles** equated the “value of the taxable property” with full cash value, it must be remembered that the latter value then appeared on the assessment rolls as “the last assessment for state and county taxes”. This is no longer true. Since the decision in the **Galles** case in 1919, pursuant to the orders and directives of the state board of equalization of the state of Montana, all property in Montana has been assessed at 40% of the true, or full cash value.

While section 84-401, Revised Codes of Montana, 1947, would appear to preclude the use of this "assessed valuation" figure on the assessment rolls (stating, in part, that "all taxable property must be assessed at its full cash value") the courts have actually approved the use of this figure. In **Yellowstone Pipe Line Co. v. State Board of Equalization**, 138 Mont. 603, 358 P.2d 55, the court stated:

"Perfect uniformity in taxation can never be achieved, and as long as substantially the same proportion of the same type of property is subjected to taxation, the courts will not interfere."
(Emphasis supplied)

The California District Court of Appeal, Second District, with constitutional and statutory provisions similar to ours, recently confronted two cases which shed light on this question. **Michels v. Watson**, 229 Cal. App.2d 497, 40 Cal. Rep. 464, and **Hanks v. State Board of Equalization**, 229 Cal. App.2d 520, 40 Cal. Rep. 478. Both cases dealt with taxpayers who complained that, despite the constitutional provision and the statute requiring that their properties be assessed at their true values, their properties were not being assessed at this value but a percentage thereof. The California court ruled that the properties needed not be assessed at their true value in money, but could be assessed at a percentage thereof.

The Supreme Court of Montana, in **State ex rel. Board of Equalization v. Vanderwood**, 146 Mont. 276, 405 P.2d 652, approved of this reasoning, stating:

"We adopt the reasoning of the California court and hold that R.C.M. 1947, section 84-401, is complied with so long as the same type of property bears the same proportion of the tax base."

Thus the Supreme Court of Montana approved the use of the "assessed valuation" figure, 40% of the true cash value, as the value to be placed on the assessment rolls.

Returning to the statutory and constitutional provisions we find the assessed valuation to be determinative. Section 6, Article XIII, states that the "value of taxable property" is **"to be ascertained by the last assessment for state and county taxes"**. Section 75-3902, R.C.M. 1947, providing for the maximum bond indebtedness to be incurred by high school districts, states that it **"be ascertained by the last completed assessment for state, county and school taxes"**. Section 75-3724, R.C.M., 1947, referring to the duties of the county assessor, requires the taxable value be reported **"as the same appears in such completed assessment book."** Even the **Galles** decision was in accordance, reading:

“... the language of the Constitution above must be construed to mean that the limit of county indebtedness is five percent of the value of the taxable property as **that value is disclosed by the assessment-roll; . . .**” (Emphasis supplied)

It becomes clear, therefore, that the value which appears on the assessment books is determinative, for purposes of ascertaining the maximum indebtedness to be incurred by a high school district. The court in the **Galles** case could equate this value to full cash value only because the latter then appeared on the assessment books. The value now appearing, and with the approval of the Montana Supreme Court, is the assessed valuation.

THEREFORE, IT IS MY OPINION that the maximum indebtedness to be incurred by a high school district, including existing indebtedness, should not exceed five percentum (5%) of the value of the taxable property therein, **as that value appears on the assessment rolls; i.e., the assessed valuation of the taxable property therein.**

Very truly yours,

ROBERT L. WOODAHL
Attorney General