

OPINION
45-27

March 19, 1945 (OPINION)

BONDS ISSUED BUT NOT SOLD

RE: Right of Issuing Body to Destroy

We are in receipt of your letter under date of March 15, 1945, wherein you request the opinion of this office as to the authority of the state water conservation commission to destroy bonds which have been printed but not sold, bonds which have been paid and canceled, and bonds which have been canceled by reason of the issuance of other bonds in lieu thereof.

A search of the statutes does not disclose that the legislative assembly has enacted any legislation providing for the destruction of state bonds, or bonds issued by any department thereof. Section 22-0324 of the North Dakota Revised Code of 1943 relates to the destruction of municipal bonds which have been redeemed or paid. This section is not applicable to state bonds, or bonds issued by a state office, except in the sense that it may serve as a guide when it is deemed advisable to destroy such bonds.

For your guidance, we suggest:

1. Before any bonds are destroyed your commission should, by appropriate resolution, clearly identify the bonds to be destroyed and should direct their destruction;
2. Bonds which have not been issued or sold may be destroyed at any time. Such bonds have been merely printed and, consequently, have never become obligations of the commission;
3. Bonds which have been paid or refunded should, of course, be kept until the state examiner has determined by examination of your office that they are no longer an obligation of your commission and has definitely stated that fact in the report of his examination. Holding such bonds in your vault for a period of three years should be sufficient provided that the state examiner has definitely verified and established the fact that they are no longer an obligation of the commission.

Destruction of all bonds, whether merely printed or actually issued, and later paid or redeemed, should be accomplished in such a manner that there is definite proof of their destruction in your files. Conforming to the procedure outlined in said section 21-0324 of the North Dakota Revised Code of 1943 would be sufficient.

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Attorney General