

**OPINION
50-151**

July 15, 1950 (OPINION)

SCHOOLS

RE: School Districts Not Within Purview of Se. 40-4101

Re: Section 40-4101 N. D. R. C. 1949 Supplement.

Your letter of July 11, re the above section, has been received and referred to my desk.

It is our opinion that no school district is a municipality within the purview of section 40-0101 1949 Supplement. I think this is clear from section 40-4002 N. D. R. C. which defines municipality with reference to municipal budgets as "any city, village or park district." Clearly, a school district is not a municipality within the purview of the budget law or the law re boards of budget review.

In my opinion, section 40-0101 is also applicable and clearly excludes school districts from laws governing municipalities.

Section 40-4106 provides that "before being submitted to a vote of the electors, all proposed bond issues of the municipality, school district, or park district, except those specifically excepted by law, shall be submitted to the board of budget review for approval, disapproval, or modification." The inclusion of "school districts" in this section was evidently occasioned by the thought in the mind of the person who drafted this provision that school districts were required to have boards of budget review. Certainly by far the larger number of school districts lie outside of municipalities which are required to have boards of budget review and hence could not possibly be required to submit a proposal to issue bonds to any board of budget review. This section does not specifically require the board of education or board of directors of a district coterminous with a municipality having a board of budget review to submit the proposal to issue bonds to such board. The section simply says the proposal to "the board of budget review," which of course means the board of budget review of the city, village or park district since all of these have such boards. Since both a city or village and the park district within them have boards of budget review, which board should the school district submit its proposal to-the city board or the park district board?

It is our opinion that, since no school district has a board of budget review, it is not necessary to submit its proposal to any such board.

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