

OPINION
53-30

January 8, 1953 (OPINION)

EDUCATION

RE: School District Qualified for Special Federal Aid

Our opinion has been asked as to whether your school district has fully complied with the requirements and intent of chapter X, Department of Defense, Flood Control, providing for the building of a school house for your district.

This provision requires that your district furnish "the maximum amount of money which can be provided through a bond issue within the general debt limitation permitted for such school district". We understand that your district has issued and sold bonds under the authority of chapter 21-03 of N.D.R.C. of 1943 in the amount of twenty-four thousand dollars, such sum being five percent of fifty percent of your assessed valuation as last equalized by the State Board of Equalization. This amount was the maximum amount for which bonds could be sold under the general constitutional debt limitation provided by Section 183 of our State Constitution. This is the debt limitation for school districts as originally provided by Section 183 of the Constitution. Later, this section was amended to provide that upon a majority vote of the electors the debt limitation could be increased an additional five percent of the assessed valuation. This department has consistently held over many years that the general debt limitation of all governmental subdivisions of the state, including school districts, is five percent of the assessed value of the subdivision.

It is true that the section as it now stands authorizes, by a special election, an increase of such debt limitation. However, it is our opinion that this increased limitation is a special limitation since such increase may be authorized only by a majority vote at a special election held under the provisions of chapter 15-48 N.D.R.C. 1943.

It is our opinion that it is such a general debt limitation that is specified in the Federal Statute hereinbefore quoted. This statute must be interpreted under the general rules of interpretation, among which is the rule that each and every word of the statute must be given a reasonable and effective meaning. Had Congress intended that the district must resort to an election to determine whether a majority of the electors were in favor of the permissible increase referred to hereinbefore, it could have expressed such intent by simply omitting the word "general" from the requirement. Since the word "general" was inserted, it must be given a reasonable meaning, and, it is our opinion that its use precludes the requirement of such special election to make the permissible debt limitation increase. What would happen if such an election were required, and a majority of the electors voted against such increase? Would this absolutely preclude the federal aid intended by the act quoted? We think not, and this situation is, in our opinion, conclusive upon the construction of this federal statute.

Section 57-0228 N.D.R.C. 1943 provides that the value of all property subject to a general tax to be used in the computation of the tax levied shall be fifty percent of the full and true value thereof. Therefore, the general debt limitation of this school district is five percent of fifty percent of the assessed valuation. This is the construction put upon this section by our supreme court in the case of Dawson v. Tobin, 74 N.D. 713, 24 N.W. 2d. 737. And this is the construction given this department for many years. When a school district requests the Board of University and school Lands to purchase its bonds, it is required to furnish a certificate of the county auditor as to the assessed value of the district as the last equalized by the State Board of Equalization. When this certificate is made it is accepted by the department as correct. The county auditor is the official charged with the duty of figuring the individual tax levies and therefore is the final source of information as to the true assessed valuation of any governmental subdivision.

In figuring the debt increase permissible under the debt limitation, the outstanding indebtedness in excess of available assets for the payment thereof is deducted from the actual five percent of the assessed value of the district. To make this computation in any case, the department requires a verified financial statement verified by the treasurer and clerk of the district, further verified by the county auditor as to what the county records show. Such statement is accepted as correct in passing upon the regularity and legality of any bond issue.

It is our understanding that the present indebtedness of this district is nil and that the only assets available consist of the tax levied for the operation of the school during the current school year. This fund could not be used for debt payment generally, but must be used only for the expenses of operating the school during the current school year.

It is therefore our opinion that by the issuance of bonds in the amount of five percent of the fifty percent of the actual assessed value, you have fully and fairly made the contribution required by the quoted federal statute.

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