

**OPINION
59-123**

July 22, 1959 (OPINION)

GOVERNMENTAL FINANCE

RE: Bonds - Resolution - Debt Limit

Re: Bond Issue - Increase of Debt Limit -

Oakes Special District

We have this date examined file showing proceedings of the above municipality in re increase of debt limit and in re issuance of bonds.

Purpose of bonds is stated as "erecting additional school buildings in Oakes, North Dakota." In view of the decision of our supreme court in Stern v. Fargo, 18 N.D. 289, it is possibly arguable that said purpose is not definitive enough to satisfy the requirement of subsection 5 of section 21-0309 of the N.D.R.C. of 1943. However, no objection is made thereon.

We note further that initial resolution indicates date of the bonds to be January 1, 1960 and last maturing bond to fall due in the year 1980. Final resolution for bond issue as last adopted indicates date of the bonds to be September 1, 1959, and last maturing bond to fall due in the year 1979. In so far as section 21-0309 does not require date of the bonds to be specified in the initial resolution, no objection is made as to this change in same subsequent to the election. Date of last maturing bond is required to be stated in initial resolution pursuant to section 21-0309 N.D.R.C. 1943, subsection 4, and same presented to the electors pursuant to section 21-0311 N.D.R.C. 1943. However, in so far as the date of the last installment of principal must be due not more than twenty years from the date of the bonds pursuant to section 21-0319 N.D.R.C. 1943, any bond of this issue of date September 1, 1959, falling due in 1980 would be void, no objection is made on the fact that said last final resolution does not indicate a bond maturing in 1980.

The only financial statement included in file is an unsigned paper attached to the front of the file. Prior to purchase of municipal bonds, it is customary to inquire into the financial status of the municipality to the extent as least of examination of a financial statement of the district, signed by its clerk. It is also necessary to examine into the debt limit of the district in so far as any bonds in excess of debt limit are void (See Section 183 North Dakota Constitution). In order to determine debt limit, it is necessary to have information as to the assessed valuation of the property in the district as last finally equalized as of the date of the sale of the bonds. The county auditor is the official custodian of such information (See Section 57-1307 N.D.R.C. 1943), therefore, statement of assessed valuation of the municipality signed by the county auditor should be included in file.

From the financial statement attached to the front of the file, it would appear that the "total assessed valuation" of the district is \$3,012,957.00. Assuming this statement to be correct, the constitutional debt limit of the district would be \$301,295.70 and any bonds of this issue over that amount would be absolutely void. We assume that there has been an error in preparing such figure as to "total assessed valuation", and that same has been computed on the fifty percent basis rather than the one hundred percent basis as is now proper, pursuant to section 21-0301 subsection 4 of the 1957 Supplement to the N.D.R.C. of 1943. We would, therefore, suggest that proper financial statement be prepared by the clerk of the district and that proper statement of assessed valuation be prepared by the county auditors of the counties in which the district is located.

LESLIE R. BURGUM

Attorney General