

SCHOOL DISTRICTS: BOND ISSUES - - No limitation on period of time that must elapse before resubmission to voters for approval of bond issue previously defeated (MSA § 475.59). Board may expend reasonable sum to inform voters of facts.

May 25, 1962

Mr. A. R. Mueller  
Attorney for Independent School  
District No. 83, Brown County  
New Ulm, Minnesota

159a-3

Dear Mr. Mueller:

In your letter of May 12, 1962 to Attorney General Walter F. Mondale, you request an opinion based on these

**FACTS:**

“A School Bond Election was held in Independent School District No. 83 in the City of New Ulm on May 8, 1962. A day or two thereafter, the School Board, at a special meeting, deeming it expedient and to the best interests of the School District, voted unanimously to hold another School Bond Election, submitting the same issue which had failed at the election on May 8<sup>th</sup>.

“Section 475.59 of M.S.A. provides the manner in which the School Board may call an election for the purpose of issuing bonds. There appears to be nothing in the statutes which prohibits the holding of another election for any certain length of time after an election on a bond issue has failed.”

**QUESTION:**

“Is there anything that I am not aware of that would prohibit the holding of a second election on the dates indicated?”

**FACTS:**

“Prior to the holding of the election, the School Board purchased certain newspaper space for the purpose of showing a picture of the proposed new school building. Such newspaper space contained factual data with regard to the proposed new school building and the need for it. Nothing in this paper did indicate that a voter should vote for or against the bond issue.

“Section 123.35 of M.S.A. gives to the School Board in an Independent District certain general powers. Subd. 2 of this Section makes it the duty of the function of the district to furnish school facilities. This section generally imposes upon the School Board a duty and obligation to provide necessary facilities. It would seem that the School Board would have the power in its discretion to place before the voter, information relating to school facilities and the need for additional facilities, but there has been some objection within the district to the spending of money on the part of the Board to purchase this newspaper space. I enclose one of the pages of the newspaper, purchased by the School Board to illustrate the type of information that was printed in the paper and for which the School Board will pay if empowered to do so.”

**QUESTION:**

“Would the School Board have the power to choose this method of informing the voter, if in its discretion such information was necessary to inform the voter of the need for new school facilities?”

**FACTS:**

“In the early part of 1960, the School Board proposed a bond election to authorize the issuance of bonds for the construction of a senior high school. This bond election failed. In the fall of 1961, the School Board asked for volunteers who would serve on a Study Group and wrote letters to a large number of individuals in the school district, asking for volunteers. A certain number who were so called upon, responded and agreed to serve on a Study Group. This group met, elected officers, including a president, a vice president and a secretary and later elected a treasurer to receive funds to defray the expense of the Study Group. After the organization of the Study Group, the Study Group appointed a committee to seek out additional persons to serve on this committee so as to represent all of the people in the school district. About 44 members served on this Study Group which met independently at its own discretion about two times each month, commencing in the early part of November, 1961.

“After spending about five months in studying all phases of the school problem in the City of New Ulm, the Study Group made certain recommendations to the School Board and recommended that a bond election be held some time in the month of May, 1962, for the purpose of voting upon a bond issue.

“At no time collectively or individually did the Study Group meet with the School Board when the School Board made its determination with regard to the proposed bond issue. After the School Board had voted to hold a bond election on May 8<sup>th</sup>, the Study Group served as a nucleus, and together with one hundred or more other

individuals, sought to inform the voters with regard to the election to be held on May 8, 1962.

“In connection with the information disseminated by the Study Group and other volunteers, certain radio time was purchased and paid for by this group of citizens and certain newspaper space was purchased in which was printed the names of persons who had stated that they were going to vote ‘yes’ at the bond election. Between 1100 and 1200 such names were printed. The names had been solicited by telephone calls made by approximately 100 individuals, some of whom had been members of the Study Group.”

**QUESTION:**

“Under these facts, in your opinion, did this committee do anything that was illegal or could it be said under the facts, that the School Board was in any way affiliated with a large group of citizens so as to prevent these citizens from spending their own money for radio time and newspaper space to publish such information as they saw fit?”

**OPINION**

In our opinion, the law places no limitation on the period of time that must elapse before a resubmission to the voters is made for approval of a bond issue previously defeated. M.S.A. § 475.59.

The board may expend a reasonable amount of money to inform the voters of facts. Op. Atty. Gen. 159b-11, September 17, 1957 (copy enclosed), is consistent with this opinion, and is adhered to. Whether the newspaper clipping enclosed with your letter is a true and accurate statement of the facts, we do not pass upon.

[Mr. A. R. Mueller --4

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On the facts you submit, the activities of the Study Group do not appear to be illegal. Whether the school board was in any way affiliated with the activities of the Study Group, we cannot answer on the facts submitted.

Very truly yours,

WALTER F. MONDALE  
Attorney General

LINUS J. HAMMOND  
Assistant Attorney General

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enc.