

Opinion No. 60-38

March 8, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Wesley Freeburg Superintendent Lordsburg Municipal Schools Lordsburg, New Mexico

QUESTION

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Is it permissible for Lordsburg Municipal Schools to set up a retirement schedule of its 1959 General Obligation Bond Issue in such a manner as to vary the annual payments on these bonds so that the total annual payment by the taxpayers including payments on outstanding issues, will be substantially equal? Specifically, you submit a schedule showing the retirement dates and amount of your previous bond issues together with the proposed schedule for your 1959 issue as well as the total annual payment of all issues and ask if the 1959 issue can be retired according to this proposed schedule.

CONCLUSION

Yes.

OPINION

{*392} **ANALYSIS**

The schedule which you submit is set out as follows:

Fiscal Year	Retirement Schedule	Proposed Schedule	Total Annual
1948 and 1951 Issues			
1960-61	\$ 23,000.00	\$ 29,000.00	\$ 52,000.00
1961-62	23,000.00	27,000.00	50,000.00
1962-63	23,000.00	27,000.00	50,000.00
1963-64	23,000.00	27,000.00	50,000.00
1964-65	10,000.00	40,000.00	50,000.00
1965-66	50,000.00	50,000.00	
1967-68	50,000.00	50,000.00	
1968-69	50,000.00	50,000.00	
1969-70	50,000.00	50,000.00	
	\$ 102,000.00	\$ 400,000.00	\$ 502,000.00

Your question has been answered by this office in an unpublished opinion directed to you dated March 29, 1951 and signed by Honorable Joe L. Martinez, Attorney General. In that opinion he states your question as follows:

"You first ask whether the school district may vary the annual payments of these bonds so that the total payment by the taxpayers, including payments on outstanding issues, will be substantially equal."

The following answer is given:

"Section 55-720 of the 1941 Compilation provides that the bonds shall be payment 'in substantially equal annual installments.' In passing, I would like to mention that a great part of this section has been superseded by § 7-616 of the 1941 Compilation. The purpose of this section is for the protection of the taxpayer, so that he may not be subject to excessive levies during any tax year within the life of the bonds. I do not feel that the spirit of this section would be violated by the plan which you propose."

The sections enumerated in General Martinez' letter are now compiled as §§ 11-6-15 and 73-8-20, N.M.S.A., 1953 Compilation.

This office has fully considered the question anew and sees no reason to alter the result previously reached.

By: Patricio S. Sanchez

Assistant Attorney General