

Budget System—Payment of County Warrants Issued Prior to the Operation of the Budget Law.

Chapter 209 of the Laws of 1921 construed to permit the payment of warrants, issued prior to July 1, 1921, out of taxes levied and paid into the fund against which such warrants are outstanding, whether included in the budget or not.

Lincoln Working, Esq.,
County Attorney,
Glasgow, Montana.

My dear Mr. Working:

You have inquired whether, in view of the budget system provided for in Chapter 209 of the Laws of 1921, you are authorized to pay warrants issued prior to July 1, 1921 out of taxes levied and paid into the fund against which such warrants are outstanding. No statement is made whether or not in the budget there was any allowance for amounts necessary to retire the warrants outstanding.

Chapter 209 of the Laws of 1921, after providing for estimates by officers and agencies of the amount required for same, and after providing for the manner of making up the budgets and levying taxes to provide funds for the same, reads as follows:

"Section 5. Each and every and all County Officers, institutions and agencies, including Boards of County Commissioners, shall be limited in their expenditures for the fiscal year for which such budget was made, to the amount and in the manner as in such budget, as finally approved, shall be set forth, provided, that should any emergency or just cause arise for the allowance of a greater sum or sums for any particular office, officer, institution or agency of the county, and the County Commissioners shall have determined that such is an emergency or just cause for the allowance of the additional amount, they may permit expenditures to be made for such emergency or just cause and include the same in their estimate for tax levy in the succeeding fiscal year."

"Section 6. All budgets or applications for expenditures prepared and filed in accordance with the provisions hereof, shall be public records, and no warrant shall be drawn for any expenditure except those provided for in said budget."

By the provisions of Chapter 73 of the Laws of 1921, the fiscal year of a county commences July 1st and ends June 30th. The above provisions plainly limit the expenditure of the moneys collected "to the amount and in the manner as in such budget, as finally approved, shall set forth", Section 6 adding a specific prohibition against the drawing of any warrant for an expenditure "except those provided for in said budget."

Emergency cases are provided for in Section 5 by allowing the Commissioners, when they "shall have determined that such is an emergency or just cause," to permit expenditures for such emergency or just cause and include the same in their estimate for the following fiscal year.

From the foregoing it is evident that any outstanding warrants that have been issued either during the present fiscal year or the prior year, provision for which has been made in the budget, may be called and taken up in the usual manner.

The Supreme Court in *State ex rel. County Commissioners v. District Court*, 62 Mont. 275, used the following language:

"The warrants registered prior to July 1 were a direct charge upon the entire poor fund. They had been issued and registered under the statutes then in force and it would not have been competent for the legislature to give preference to other claims over them. (*People v. Austin*, 11 Colo. 134, 17 Pac. 485; *Rollins v. Board*, 199 Fed. 71; *Dillon on Municipal Corporations*, (5th ed.), sec. 859; 15 C. J. 606.) There is not anything in the legislation, however, to indicate an attempt to impair the obligation of those contracts."

From this it appears that whether warrants registered prior to July 1st were included in the budget or not, they are a prior charge against any fund upon which they were drawn as to any taxes thereafter collected into such fund.

It is, therefore, my opinion that you have authority to call for payment, warrants issued prior to July 1, 1921, and pay the same out of the taxes levied and paid into the fund against which such warrants are outstanding.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.