

**County Commissioners, Meetings of. Meetings, of County Commissioners.**

Under the terms of Chapter 148, Session Laws of 1915, the monthly meeting of the Board of County Commissioners is discretionary with them, except in the cases required by law to meet for specific purposes.

July 6, 1915.

Hon. R. S. Stephenson,  
County Attorney,  
Dillon, Montana.

Dear Sir:

I am in receipt of a communication from you under date the 2nd instant, asking for my interpretation of Chapter 148 of the Session Laws of 1913, amending Section 2891, Revised Codes of Montana, 1907. The question involved here is whether the words "the board of county commissioners, except as may otherwise be required of them, may meet at the county seat of their respective counties on the first Monday of each and every month of the year \* \* \*," are mandatory or directory? You state it as your opinion that the words "may meet," as used in this law, are mandatory, basing such conclusion upon two grounds:—First, that the word "may" must be interpreted to mean "shall" or "must" whenever the rights of the public or third persons depend upon the exercise of the power or performance of the duty to which it refers; Second, that if the words "may meet" are directory only, the matter of holding meetings by the board will be entirely within the discretion of the board.

Comparing the two laws, Section 2891, Revised Codes of Montana, 1907, and Chapter 148 of the Session Laws of the Fourteenth Legislative Assembly, we find that in Section 2891 the legislature used the words "must meet." This expression is mandatory. When amending the law, we find that the legislature chose to use the words "may meet." The only purpose which can be ascribed to the legislature in making this change in the language, is that they intended that the board should have some discretion in the matter of their meetings; for unless this interpretation is adopted, we can see no purpose in the change. It is to be further noted that the new law also says:

*"The Board of County Commissioners, except as may otherwise be required of them, may meet, etc."*

This exception was apparently put in to cover the meetings at which the Board acted in levying the taxes, or as a Board of Equalization.

I think the argument based upon the duty to the public or to private individuals, is not applicable here, since there is no provision of law which requires that bills be audited and allowed at any particular time. The time for the payment of these claims is usually fixed by the contract of the parties. Furthermore, if the words "may meet," are construed to be mandatory, the chief purpose of Chapter 148 would be defeated, since a three day session twelve times a year would increase rather than reduce the cost of doing the county's business. It is true the argument was advanced for this legislation that it would allow

county commissioners to take advantage of discounts allowed by firms with whom they traded, which they could not avail themselves of under the quarterly meeting system, but this argument would lose all of its force if the commissioners were required to meet and allow bills where no discounts could be allowed, or where the discounts which were allowed would amount to far less than the cost of bringing the commissioners together.

For the reasons above stated, I am of the opinion that the monthly meeting of the Board of County Commissioners is discretionary with them, except in the cases where they are required by law to meet for a specified purpose.

Yours very truly,  
J. B. POINDEXTER,  
Attorney General.