

Counties—County Commissioners—Classification.

Where the Board of County Commissioners fails to designate the class of the county at the September meeting as required by the statute it could make such designation at its December meeting.

The amount of the assessed valuation need not be included in the order of classification.

Edgar J. Baker, Esq.,
County Attorney,
Lewistown, Montana.

My dear Mr. Baker:

You have submitted the question of whether the Board of County Commissioners of a county can make an order designating the class to which said county belongs at their December meeting, the said Board having failed to make said designation at the September meeting as required by Section 4742, R. C. M. 1921.

You are advised that this section has been before this office heretofore, and an opinion has been rendered thereon, which is found at page 281 of Vol. 9, Reports of Attorney General. In said opinion it was said:

“Also, had they (the Board) made no reclassification at the September meeting as required by law, mandamus would lie to compel them to reclassify. The law is mandatory relative to this reclassification, not directory. Nothing is left to the discretion of the Board of County Commissioners. The statute says they must reclassify at the September meeting, and if they fail to perform that duty, certainly the courts would compel them to act. * * * If the Board could be compelled to correct the failure, it is equally certain that it could, of its own motion and in good faith, correct it, especially where it was done prior to the time when the reclassification could take effect, to-wit, the first Monday in January next succeeding.”

It is, therefore, my opinion that the Board, having failed to designate the class of the county at the September meeting as required by the statute, can make said designation at the December meeting.

You also state that the Board, in making the designation at the December meeting, failed to state in the order the amount of the assessment as it appears upon the completed assessment roll. I find nothing in the statutes which requires this. Under Section 4742, R. C. M. 1921, the assessed valuation is the basis upon which the Board makes its designation and nothing is said about including this in the order of designation.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.