

Advertising—Counties—Resources—Budget—Emergency.

A county may not expend money for advertising its resources when it was not included in the budget.

John McMillan, Esq.,
Clerk, Board of County Commissioners,
Superior, Montana.

April 28, 1927.

My dear Mr. McMillan:

You have sent me a copy of a petition that is being circulated in your county and ask whether, in the event that sufficient signers are obtained upon this petition, the county may expend money in the sum therein named for the purpose of advertising the resources of the county. You state that no provision was made for this in your last year's budget and you desire to know whether this money may be thus expended.

Sections 4470a and 4470b of the revised codes of Montana of 1921, if they are effective, authorize the counties to expend moneys for ad-

vertising the resources of the county. These sections were originally a part of chapter 70 of the laws of 1909. The code commissioner appointed to codify the laws, in a note to section 4470a, expressed some doubt as to whether that section had not been superseded by chapter 216 of the laws of 1921.

Prior to the codification of the laws in 1921 this office had rendered an opinion to the effect that the expenditures therein contemplated were proper. This opinion is found in volume 7, Opinions of Attorney General, page 190.

It is my opinion that the code commissioner was justified in entertaining doubt as to whether chapter 70 of the laws of 1909 had not been superseded in its entirety by chapter 216 of the laws of 1921.

Sections 3638 and 3639 R. C. M. 1921, which are parts of chapter 216, seem to contemplate that such advertising shall be conducted by the department of agriculture. However, by chapter 54 of the laws of 1925, all of the statutes that were placed in the 1921 codes by the code commissioner were legalized and vitalized by the legislature. But chapter 107 of the laws of 1927 repeals sections 4470a and 4470b and in lieu thereof authorizes the expenditures of money by the counties for advertising its resources through the exposition exhibits committee of the state department of agriculture, labor and industry.

However, it is my opinion that since no provision was made for an expenditure of this sort in your last year's budget, that no expenditure for that purpose may be made. In my opinion this is not such an emergency as is contemplated by section 228 R. C. M. 1921 as to justify the expenditure of moneys not included in the county budget.

Very truly yours,

L. A. FOOT,
Attorney General.