

**Counties—Claims—Budget.**

Where supplies are furnished in one fiscal year and a claim is presented to and allowed by the board within thirty days following the close of that fiscal year, it should be paid from the budget of the preceding year.

Where the claim is not actually presented to the board until after said thirty-day period, the claim is not payable from the budget for the preceding fiscal year but provision for its payment should be made in the next ensuing budget.

The next ensuing budget is the one that is to be next completed after the claim is found to be lawful by the board.

Walter R. Knaack, Esq.,  
County Attorney,  
Shelby, Montana.

October 26, 1929.

My dear Mr. Knaack:

You have requested an opinion on the question of the payment of claims for supplies furnished the county when the supplies are furnished in one fiscal year and the claims therefor are not presented to the board until sometime during the next fiscal year.

You inquire whether such claims are payable out of the budget appropriations for the fiscal year in which the supplies were furnished or are payable from the budget appropriations for the following year or years.

Section 6 of Chapter 148, Laws of 1929, relating to the county budget system, in part, reads as follows:

“All appropriations, other than appropriations for uncom-

pleted improvements in progress of construction, shall lapse at the end of the fiscal year; provided that the appropriation accounts shall remain open for a period of thirty days thereafter for the payment of claims incurred against such appropriations prior to the close of the fiscal year and remaining unpaid. After such period shall have expired all appropriations except as hereinbefore provided regarding uncompleted improvements, shall become null and void, and any lawful claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget."

It will be observed that except as to appropriations contained in the budget for improvements in progress of construction all appropriations lapse at the end of the fiscal year except that they remain open for a period of thirty days after the close of the fiscal year "for the payment of claims incurred against such appropriations prior to the close of the fiscal year and remaining unpaid." After such period has expired all appropriations except those for incomplete improvements "shall become null and void." In my opinion this means that the appropriations are held open for thirty days after the close of the fiscal year, during which time claims chargeable against them may be presented, allowed and paid, and that after the thirty days when the appropriations have become "null and void" they are not open for the payment of any more claims whatsoever.

In my opinion, the further provision of the statute that "any lawful claim presented thereafter against such appropriation shall be provided for in the ensuing budget" refers to those claims for things furnished the county during the preceding fiscal year but which were not presented to the board in time to be approved by it and paid within the thirty-day extension period. I think the word "presented" as here used means more than the mere filing of the claim with the county clerk, and that it means the actual presentation of the claim to the county commissioners when they are sitting as a board. The mere filing of the claim with the clerk does not entitle it to be included in the next ensuing budget for the reason that it must be a "lawful claim" and the board is the judge of its legality which judgment is pronounced by the commissioners when they sit as a board and pass upon the claim.

This conclusion is also warranted from the fact that if the word "presented" means merely filed with the clerk, then in those instances where the supplies were furnished during one fiscal year and the claim was filed with the clerk within the thirty-day extension period but which claim could not come before the board of county commissioners until a session which was held after the thirty-day period had expired, such claim could not be paid from the budget appropriation for the preceding year because the statute clearly says that that appropriation has become null and void and it would not be entitled to be included in the ensuing budget for the reason that it was presented (filed) before the expiration of the thirty days. By holding that the word "presented" means actual presentation to the board of county commissioners this conflict does not exist and the claim not having been

actually presented to the board of county commissioners within the thirty-day period so that it could be paid within the said period, the same is, therefore, presented after the thirty-day period and entitled to be included in the next ensuing budget, if the board finds it to be a lawful claim.

It is therefore my opinion that where supplies are furnished in one fiscal year and a claim therefor is presented to and allowed by the board of county commissioners within the thirty-day period following the close of the fiscal year, the same should be paid from the budget appropriation of the preceding fiscal year, but where the claim is not actually presented to the board until after the expiration of said thirty-day period, then the claim is not payable from the budget appropriation for the preceding fiscal year, but if it is found to be a lawful claim provision for its payment must be made in the next ensuing budget. In my opinion, the next ensuing budget is the one that is to be next completed after the claim is found to be a lawful one by the board of county commissioners. Therefore, if the budget for the fiscal year in which the claim is presented to the board and found to be lawful has not at that time been completed provision for the payment of the claim may be made in the budget for that fiscal year, but if the budget for that fiscal year has already been completed, then provision must be made in the budget when and as it is made up for the succeeding year.

Very truly yours,

L. A. FOOT,  
Attorney General.