

**County Commissioners—Publication—Proceedings.**

County commissioners are required to publish in a newspaper a list of all claims allowed and a fair summary of their minutes under section 4465 R.C.M. 1921, as amended by chapter 54, laws of 1927.

Board of County Commissioners,  
Boulder, Montana.

March 4, 1929.

Gentlemen:

You have requested my opinion whether it is mandatory for the board to publish its proceedings in a newspaper as required by Subdivision 21 of Section 4465 R.C.M. 1921, as amended by Chapter 54, Laws of 1927.

Prior to the amendment of this section by Chapter 54, this office twice had under consideration this question.

In the first opinion (Vol. 9, Opinions of Attorney General, Page 400) it was stated:

“Subsection 21 does not deal with any power necessary to the administration of the county government. This section (4465) is dealing with powers of the board and the powers there conferred would, no doubt, in many instances also imply a duty, especially where necessary to enable the county to function as such. No such implication attaches to subsection 21.”

The conclusion reached by this office in that opinion is:

“It is my opinion that publication in a newspaper is not mandatory, but that the public is entitled to know, either by published report in a newspaper, pamphlet, or by posted notices, how their business has been handled by the commissioners, and that unless a very substantial amount can be saved the commissioners should cause their proceedings to be published in a newspaper.”

This conclusion was somewhat modified by a later opinion found in volume 10, Opinions of Attorney General, at Page 379, where it is held that the spirit of the law required the county commissioners to give the widest possible publication to their proceedings in the manner prescribed by the statute, that is, by publication in a newspaper or otherwise, and that where two or more ways of publishing are authorized, as by publishing in a newspaper or by posting, it is the duty of the county commissioners to select that one that will give the greatest publication.

These two opinions were rendered prior to the amendment by Chapter 54 of Subdivision 21 which provides:

“At the adjournment of each session of the board, to cause to be published in a newspaper, or otherwise, a fair statement

all its proceedings, and annually a statement of the financial condition of the county.”

As indicating that the legislature intended to change the law as theretofore construed by the Attorney General, it is important to note that in the amendment of this section by Chapter 54 the words “or otherwise” are omitted. This section as amended now provides:

“At the adjournment of each session of the board, to cause to be published in a newspaper, a complete list of all claims ordered paid for all purposes, showing name, purpose and amount, and a fair summary of the minutes and records of all its proceedings, and also to be published annually in a newspaper the county clerk’s annual statement of the financial condition of the county, and provided that publication of such minutes and record of proceedings must be made within twenty-one (21) days after the adjournment of the session, and publication of the financial statement must be made within thirty (30) days after the presentation of the same to the board of county commissioners, and the board of county commissioners shall not allow or order paid any claim for any publication of minutes and record of proceedings or annual financial statement unless made within the time herein prescribed therefor.”

It is therefore my opinion that by the amendment of Subsection 21 by Chapter 54, the legislature intended to make the publication in a newspaper of all claims ordered paid and a fair summary of the minutes and records of its proceedings mandatory.

The provision requiring the publication within twenty-one days and thirty days in order to entitle the board to allow and order paid the claims, in my opinion, is addressed to the newspaper. That is, if the newspaper fails to publish within the specified time a claim for such publication cannot be allowed.

It is further my opinion that publication as required by this subsection as amended, shall not be at a greater rate than provided by law for similar publications by the board of county commissioners.

Very truly yours,

L. A. FOOT,

Attorney General.

By C. N. Davidson, Assistant.