

County Commissioners—Meetings—Notice.

Commissioners in counties of the fifth, sixth and seventh classes may hold an extra session of not over two days duration. Two days' posted public notice must be given by the board while in session.

Mr. L. D. Glenn,
County Attorney,
Harlowton, Montana.

June 23, 1931.

My dear Mr. Glenn:

You request an opinion relative to the number of extra meetings a board of county commissioners in sixth class counties may legally hold.

Section 4462, R.C.M. 1921, provides for the regular meetings of boards of county commissioners. This section was amended by chapter 35, laws of 1929. The only change made by the amendment is that the number of days which the board is required to give notice was reduced from five to two, and in addition the notice was required to be posted; also the number of days of the extra meeting was reduced from three to two days.

It is apparent that the legislature did not intend by this amendment to do anything more than reduce the number of days that notice was

required to be given and the number of days that they could meet in extra session and require in addition that the notice be posted. Whatever powers the board previously had in calling extra sessions under the act, before amendment, it still has under the act as amended.

Chapter 35, which amended section 4462 also repeals section 4457. This latter section has been a part of our codes since 1895 and provided the means for calling meetings of the board by a majority of the board after the adjournment of the regular meeting, that is, a majority of the board could call a meeting when the board was not in session and was required to state the business to be transacted and none other could be transacted at such special meeting.

The repeal of section 4457 did away with the calling of special meetings by the members of the board when not in session.

Originally, the board of county commissioners met quarterly to allow bills and attend to the business of the county. This was subsequently changed by amendment. (See section 2891, codes of 1907, and section 4220, codes of 1895.) Before amendment this section provided "the board may at any time by giving at least five days' public notice hold an extra session." As the notice was required to be given by the board it could not be given except when the board was regularly assembled.

The only meaning, therefore, that can be given this language—"but the board may at any time", etc.—is "at any time when in regular session", (Williams vs. Commissioners, 28 Mont. 360, 365) for this language has never been amended. It has not taken on any new meaning since the repeal of section 4457 which provided the only means of calling a special meeting after the adjournment of a regular meeting.

Section 4462 as amended by chapter 35, laws of 1929, provides: "the board may at any time * * * hold an extra session of not over two days duration." It does not say that they may at any time hold extra sessions of not over two days duration each. Hence, I am inclined to the opinion that the legislature by the use of the above language intended to authorize one extra session per month of not over two days duration and no more.

The board could, no doubt, meet for the purposes mentioned in section 4463.

Very truly yours,

L. A. FOOT,
Attorney General.