

Budget—Schools—Tax Levies—School Districts.

Levies for school district must not exceed a millage sufficient to raise the total amount as finally fixed and determined by the budget board, notwithstanding authority given to levy a definite number of mills in excess of budget requirements.

Mr. E. K. Cheadle,
Deputy County Attorney,
Lewistown, Montana.

July 10, 1931.

My dear Mr. Cheadle:

You request an opinion relative to the extra levy of five mills voted by the Moore district of your county. You wish to know whether under the circumstances the county board of equalization may levy less than ten mills of the special levy for the Moore district.

Section 18 of chapter 146, laws of 1921, provides:

“After the budget of each district has been completed, approved and finally adopted, and the budget board shall prepare a statement and attach the same to such budget, showing the amounts necessary to be raised by tax levies in such district, which statement shall be substantially in the following form:”
(Here follows the form.)

The form provides for the amount to be raised by special levy for the general fund in five and six.

Section 19 provides:

“The county superintendent of schools, as clerk of the school budget board, shall, when the board of county commissioners meets on the second Monday in August for the purpose of fixing tax levies, lay before such board the budgets for all school districts in the county, as finally adopted and approved by the school budget board, and the board of county commissioners shall, for each district, fix such number of mills of the tax levy for each fund, within the limits prescribed by law, as will produce the amount shown by the final budget to be raised by tax levy.”

Evidently these sections contemplate that the budget is first fixed determining the total amount of expenditures which each district would be authorized to make for the ensuing year, but when this is done then levies will be made for the various purposes but not in any amount to exceed what is necessary to meet the requirements of the budget. The budget itself is a limitation upon expenditures and it would be unnecessary to make a levy in excess of what was necessary to meet these expenditures.

It is therefore my opinion that the board may reduce the special levy of ten mills or it may reduce the amount of the special levy in excess of ten mills; each levy is upon the district and it would seem to make no difference which levy is reduced, provided that the total millage

will produce sufficient money to meet the budget requirements as finally determined.

Very truly yours,
L. A. FOOT,
Attorney General.