

County Assessors—State Board of Equalization—Assessments—Property.

The state board of equalization has the authority under the law to direct the county assessor to change the valuation placed upon property as stated in the opinion.

Mr. Sherman W. Smith,
County Attorney,
Helena, Montana.

August 6, 1931.

My dear Mr. Smith:

I have your letter enclosing communication from the state board of equalization to the county assessor, directing the county assessor to make certain changes in his assessments relative to the assessed valuation of banks and bank stock. You inquire if the state board of equalization has the authority under the provisions of the constitution and the law to order the assessor to make the changes referred to in the letter.

Section 15 of article XII of the constitution of Montana, as amended in 1922, provides, among other things, that the state board shall supervise and review the acts of the county assessors and county boards of equalization and change, increase or decrease valuations made by those officers and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property and between individual taxpayers and that the board shall have such other powers and perform such other duties relating to taxation as may be prescribed by law.

In pursuance of this constitutional amendment the legislature in 1923 enacted section 8 of chapter 3 of the laws of that year, providing that the state board shall have authority to prescribe rules and regulations not in conflict with the constitution and laws of the state of Montana, to govern county boards of equalization and the assessors in the performance of their duties; to prepare and enforce the use of forms in relation to the assessment of property; to supervise and review the acts of county assessors and county boards of equalization; change, increase or decrease valuations made by them and have such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property; to exercise general supervision over the administration of the assessment and tax laws of the state and over assessors and county boards of equalization, to the end that all assessments of property be made relatively just and equal at true value.

The action of the board as outlined in its letter was no doubt taken in its supervisory capacity granted by the constitution and the statutes. To "supervise" is defined as "to have general oversight of, especially as an officer vested with authority; superintend; inspect." "Superintend" is defined as "to have the charge and direction of; regulate the conduct and progress of; be responsible for, manage." To supervise or superintend an act essentially means to direct or regulate it at the time it is being performed as distinguished from a review of the act after it is performed. Both powers of supervision and review are granted to the state board by the constitution and the law. It was apparently the intention that the state board should not only have the power of reviewing acts performed by the assessor but also in directing him at the time of performance.

Furthermore, the valuations arrived at by the state board in its letter are apparently the result of the operation of rules and regulations adopted by the board for the government of itself and assessors in arriv-

ing at the true value of property of the kind mentioned therein, which rules and regulations are prescribed for the purpose of securing a fair, just and equitable valuation of the property and to make the assessments of this character of property relatively just and equal at true value throughout the state.

Under these circumstances it is my opinion that the county assessor should follow the direction of the state board of equalization as set forth in its letter.

Very truly yours,

L. A. FOOT,

Attorney General.