

Budget—High Schools—Schools—Taxes—Warrants.

Where the county high school and district high school submit their budgets the county commissioners are not authorized to reduce the budget of the district high school without notice and without an opportunity to be heard. In such case the proceeds of the taxes collected must be apportioned to each school in the proportion that its budget bears to the total high school budget of the county.

Mr. D. M. Durfee,
County Attorney,
Philipsburg, Montana.

December 22, 1931.

My dear Mr. Durfee:

You have submitted to this office the following question:

Granite county has a county high school and also a district high school located in district number 11. Budgets for both high schools were submitted for the purpose of fixing the amount necessary to be raised by a tax levy on the whole county. A levy of seven mills for high school purposes was made. The board of budget supervisors met and adopted a budget for both the county high school and the district high school. An estimate was made of expenses that would be incurred by the district high school and also by the county high school. The budget submitted

by the district high school called for an expenditure of \$11,430.00; the budget board cut this amount to \$3,286.00. No notice was given by the board of county commissioners to the board of trustees of the school district as provided in section 90 of the high school act. The amount was simply deducted from their budget and the levy made to take care of the remainder and also of the county high school requirements.

By reason of the fact that the board of trustees of the district high school had no notice of the action of the budget board it hired another teacher which it considered necessary by reason of increased enrollment.

The question which you are asking is whether there is any remedy at the present time. The section which you refer to (section 90 of the high school act) adopted at the last session of the legislature provides:

“At the next regular meeting of the board of county commissioners the board shall either approve or reject such budget or budgets. Provided, however, that in the event the board of county commissioners shall reject any such budgets in whole or in part it shall cause the reasons for its rejection to be spread upon the minutes and a copy thereof to be immediately furnished to the chairman of the board of trustees which has submitted such budget, and provided further that no final action on said budget shall be taken by the said board of county commissioners until after a hearing thereon shall have been had which said hearing shall be held by said board of county commissioners on the third Monday in July after said budgets shall have been submitted. At said hearing the chairman of the board of county commissioners, or a member of that body appointed by him; the chairman of the board of trustees of the school submitting such budget, or a member of that board appointed by him; and the county superintendent of schools shall constitute a budget board. This budget board shall have the power and it shall be its duty to consider such rejected budget and shall arrive at a budget which shall not be subject to further review. After said board has arrived at a budget the board of county commissioners shall make a levy sufficient to raise the total amount of all budgets for high school purposes.”

In my opinion the action of the board of county commissioners in reducing the budget for the district high school without giving notice did not constitute a valid or legal reduction of the budget. The law is very specific and requires notice to be given, otherwise it is without jurisdiction to make a reduction.

It is therefore my opinion that the budget of the district high school must be considered in making the apportionment of the taxes collected as though no reduction had been made and the apportionment should be made as provided in section 86, as follows:

“The proceeds of said special tax shall be apportioned in December and June of each year by the county superintendent of schools amongst the county high school and/or district high schools in the following manner. Each high school shall share

in the amount collected in the proportion that its budget bears to the total high school budget of the county for said tax."

You also have a question regarding the registered school district warrants which were registered in previous years. You wish to know whether they can be paid out of revenue received for the current year.

In my opinion this question all depends on whether the warrants issued in previous years were in excess of tax levies. This you state was the fact. In my opinion the fact that such warrants were included in the budget for the current year would not validate them. The attempted amendment of the budget by striking them out did not change their status in any manner.

Warrants that were legally issued in previous years and registered can be paid in the order of their registration out of revenues collected for the current year. If the revenue is thereby depleted the school district will, of course, have authority to issue further warrants up to the amount of their anticipated tax levies for the current year, but not in excess thereof and can register these warrants for payment in a subsequent year.

Very truly yours,

L. A. FOOT,
Attorney General.