

Counties—Budget—Appropriations—Transfers—Expenditures.

Transfers within the general class of salaries and wages or of maintenance and support are confined to transfers from those appropriations which are payable out of the same fund as is payable the appropriation for salaries and wages or maintenance and support to which the transfer is made, except that as to appropriations to be expended from county road or bridge funds, special road district funds or any special highway fund, transfers may be made between or among the general classes of salaries and wages, maintenance and support and capital

outlay. This is the only instance where transfers may be made as between the general classes and where a transfer of an appropriation may be made that is payable out of one fund to an appropriation payable out of another.

Transfer cannot be made from an appropriation payable out of the general fund to an appropriation payable out of the county road fund.

Mr. M. R. Wood,
County Commissioner,
Kalispell, Montana.

June 30, 1932.

My dear Mr. Wood:

I have your request for an opinion. It appears that your county has incurred expenditures against the road fund in excess of the appropriations made in the budget against that fund. The board stopped all road work on May 10th but since the bills have come in the board finds that the bills exceed by about \$600.00 the appropriations contained in the budget. You inquire if transfers from other items in the budget may be made to the road fund appropriations so that this deficit in the appropriations can be made up.

In making up the budget the law requires that the expenditures authorized therein must also specify the fund or funds against which warrants may be issued in payment thereof and that the board of county commissioners must fix the amount of the tax levy for each fund necessary to raise the amount of the estimated expenditures to be made therefrom less estimated revenues from sources other than taxation, available surpluses and expenditures that are to be made from bond issues. The expenditures authorized by the budget as finally adopted must not exceed the estimated revenues to accrue to each fund specified in the budget as being the ones against which warrants will be drawn in payment of the expenditures.

Transfers are permitted to be made within the general class of salaries and wages and of maintenance and support but transfers between the general classes provided in section 2 of chapter 148 of the laws of 1929 are prohibited but as to appropriations to be expended from county road or bridge funds, special road district funds, or any special highway fund, transfers between or among the general classes of salaries and wages, maintenance and operation and capital outlay may be made.

In view of the above provisions it would appear that the right to transfer within the general class of salaries and wages or the general class of maintenance and support is confined to a transfer from those appropriations which are payable out of the same fund as is payable the appropriation for salaries and wages or maintenance and support to which the transfer is made. Thus, salaries of one department, payable out of the general fund, might be transferred to salaries of another department payable out of the same fund.

A transfer cannot be made from an appropriation payable out of

one fund to an appropriation payable out of a different fund for the reason that these appropriations become the basis for the levy of the taxes with which to balance the budget and the taxes are levied for the funds in accordance with the appropriations which are designated in the budget as payable out of particular funds. If a transfer could be made from an appropriation payable out of one fund to an appropriation payable out of another fund this would have the effect of changing the fund out of which the amount transferred was originally payable and of making it payable out of the other fund with the result that that part of the appropriation which was transferred would become payable out of a fund for which no provision had been made (in fixing the tax levy for that fund) to raise an amount of money equal to that transferred, and liabilities incurred in excess of the original appropriations, but within the amount transferred, could only be paid in the event that the board over-estimated the revenues to accrue to that fund.

The act above mentioned specifically provides that as to appropriations to be expended from county road or bridge funds, special road district funds, or any special highway fund, transfers may be made between or among the general classes of salaries and wages, maintenance and support and capital outlay. This is the only instance where transfers may be made as between the general classes and is the only instance where a transfer of an appropriation might be made that is payable out of one fund to an appropriation payable out of another.

If a transfer could be made from an appropriation payable out of the general fund to an appropriation payable out of the county road fund then after such transfer was made, by a transfer from the appropriation to which it was transferred to an appropriation payable out of the bridge fund or special road district funds there would be effected that which is prohibited by the act, namely, promiscuous transfers between appropriations regardless of the funds out of which they are payable. If the transfer was from an appropriation for salaries and wages payable out of the general fund to an appropriation payable out of the road fund then by subsequent transfers the appropriation could be transferred to maintenance and support or capital outlay which is likewise prohibited by the act.

From the foregoing, it is my opinion that transfers may not be made from appropriations contained in the budget payable out of the general fund to the county road fund and that the board is without authority to make such transfers in order to meet the deficit in the appropriation that is payable out of the county road fund.

Very truly yours,

L. A. FOOT,
Attorney General.