

Cities and Towns—Budget Law.

Chapter 121 of the laws of 1931, known as the municipal budget law, applies to all cities in the state, including those having the commission or commission-manager forms of government.

Mr. R. N. Hawkins,
Assistant State Examiner,
Helena, Montana.

August 31, 1932.

My dear Mr. Hawkins:

You inquire whether cities operating under the commission-manager form of government are required to comply with chapter 121, laws of 1931, known as the "municipal budget law."

Section 1 of said chapter 121 reads as follows:

"The provisions of this act shall apply to all cities in this state, and it may be referred to as the 'Municipal Budget Law.' As used herein the terms 'municipal corporation' or 'municipality' shall mean city; the term 'council' shall mean city council or city commission; the term 'clerk' shall mean the clerk of the city."

It will be observed from the above provision that the act applies to all cities in this state and that the term "council" means city council or city commission. This section makes plain that it was the intention of the legislature that the act should apply to all cities in the state and not only to those cities having a certain form of government. It is also clear that the legislature had in mind the fact that certain forms of city government have city councils while other forms have commissions, for while the body of the act deals with city councils the above section

specifically provides that wherever the city council is referred to in the act it also means city commission.

This reference to city commission clearly shows that the legislature in enacting the budget law had in mind that it should apply not only to those city governments that have city councils but also those forms of city governments which have commissions, namely, the commission and commission-manager forms. The reference to "city commission" in said section would be meaningless except that it be held to refer to those forms of city government last above mentioned.

As cities under the commission form of government and under the commission-manager form of government are under the control of a commission I can see no reason for holding that the act should apply to those cities under the commission form of government but not to those under the "commission-manager" form. In both instances the governing body is a commission and under the commission-manager form the manager is merely hired by the commission to act as a manager of the affairs of a city subject to the general control of the commission.

Furthermore, to differentiate between the two forms of commission government and hold that the budget law did not apply to the commission-manager form of government would be to annul in part that part of section 1 which provides that the act applies to all cities in the state. Had the legislature intended it to apply only to certain forms of government and to exclude cities with other forms of government it would have plainly said so. The direct and positive statement that the act applies to all cities and the reference to "city commission" can leave no doubt about the intention of the legislature that the act is to apply to all the cities of the state regardless of their form of government.

It is therefore my opinion that cities operating under the commission-manager form of government are subject to the provisions of the municipal budget law.

Very truly yours,

L. A. FOOT,

Attorney General.