

Opinion No. 244**High Schools—Pupils—Transportation
—County High Schools—County
Commissioners.**

HELD: The county high school board has the power to contract for transporting pupils subject to the supervisory powers of the board of county commissioners sitting as the board of budget supervisors.

June 20, 1933.

You request an opinion from this office as to who has the authority to let the contract for transporting pupils to high schools, the district where the pupils reside, the district where the pupils attend schools or the county commissioners.

The board of county commissioners is the board of budget supervisors (Sec. 2 Chapter 146, Laws of 1931), and has the power to "eliminate," "increase," "change" or "reduce" any item of any budget. (Sec. 13, Chapter 178, Laws of 1933, Opinions of Attorney General, Vol. 10, p. 338.)

The Board of Trustees of County High Schools is created by Section 3, Chapter 148, Laws of 1931, and is composed of the County Superintendent and

six other members appointed by the County Commissioners. (Sec. 4.) "They shall have power" * * * (Section 83, Laws of 1931) * * * (sub-section 16.) "To transact all business, to make and execute all contracts, to acquire, hold and dispose of all property, whether real or personal, in the name of the county or school district, as the case may be; and generally to have, possess, exercise and enjoy all powers and authority necessary to execute the specific powers, and to discharge the particular duties hereinbefore conferred and imposed upon the board; but nothing contained in this section shall be deemed or construed to confer any power or authority upon any board contrary to the provisions of sections 1016 and 4447, of the Revised Codes of Montana of 1921, in any case where the provisions of these sections, or either of them, would otherwise be applicable." The foregoing gives the Board of Trustees of the County High Schools power to make all contracts relating to high schools.

Section 44, Chapter 148, Laws of 1931, as amended by Chapter 156, Laws of 1933, empowers the board to pay out the funds for transportation of pupils but does not take the power to contract from the County High School board in which it is vested by subsection 16 of section 83, Laws of 1931. But section 13, Chapter 178, Laws of 1933, gives the County Commissioners power to review the budget of all school districts, as heretofore stated, and the budget item of expenditure to meet the requirements of a contract for transportation, etc., would come under the supervision of the County Commissioners in such review.