

Opinion No. 133.

**Counties—County Commissioners,
Powers of—County Budget.**

HELD: The board of county commissioners is not bound by the items in the preliminary budget but may after the final meeting on the Wednesday immediately preceding the second Monday in August, at the time of adopting the final budget, make such changes therein as it deems necessary, advisable and proper.

August 7, 1937.

Mr. Harold K. Anderson
County Attorney
Helena, Montana

Dear Mr. Anderson:

You have submitted the following:

“May the commissioners, if they deem it advisable and proper, increase

the budget items appearing in the preliminary budget with reference to salaries of deputies and include in the final budget adopted by them the amounts which have been raised or increased over and above the items set out in the preliminary budget?"

Section 4613.1-4613.3 R. C. M. provide for the estimates of revenues and expenditures and the preparation of a preliminary county budget. The last named section also provides that the county commissioners, after all the tabulations have been made, shall consider the same in detail and shall, on or before the 25th day of July, make such revisions, reductions, additions or changes therein that they deem advisable, and after the same has been done, such tabulation shall constitute the preliminary county budget for the fiscal year which it is intended to cover. This section also provides for the publication of notice to the effect that the said board has completed their preliminary county budget for the current fiscal year, that the same has been placed on file for inspection and that the board will meet on Wednesday immediately preceding the second Monday in August thereafter, for the purpose of fixing the final budget, designating the time and place when and where such meeting will be held and that any taxpayer may appear thereat and be heard for or against any part of said budget.

Section 4613.4, R. C. M., 1935, as amended by Chapter 98, Laws of 1937, provides for the hearing on the budget, the final adoption thereof and fixing of the tax levy. At the conclusion of the hearing "the board shall then determine and fix separately the amount appropriated for and authorized to be expended for each item in the budget" etc. Nowhere do we find any express limitation upon the board preventing the board from making changes in the preliminary budget when and after the hearings have been held thereon. It would be futile to conduct a hearing unless the board had power to make changes in the preliminary budget. On the other hand, the general and express power is given to the board to then fix separately the amount appropriated for and authorized to be expended for each item in the budget.

Said section further provides that the board shall by resolution "approve and

adopt the budget as was finally determined." In other words, all that has been done heretofore is preliminary and the board, after the meeting provided for by statute, is then vested with the final power to fix the amounts to be expended. In view of this general power given to the board, and in the absence of any provision which binds the board to the estimates as contained in the preliminary budget, it is my opinion that the power is vested in the board and that it is its duty to make such changes in the different items of the preliminary budget which it shall deem necessary, advisable and proper.