

No. 133

**COUNTIES—COUNTY COMMISSIONERS—FUNDS—
TRANSFERS, when permitted**

Held: Transfer of surplus moneys in poor or bridge funds of county may be made to road fund at the end of the fiscal year .

May 31, 1941.

Mr. Edison W. Kent
County Attorney
Granite County
Philipsburg, Montana

Dear Mr. Kent:

You have requested my opinion as to the authority of the county commissioners to make transfer from the county poor and bridge funds to the road fund.

Section 4613.5, Revised Codes of Montana, 1935, insofar as pertinent here provides:

"Section 4613.5. Appropriations—transfers among appropriations—use of borrowed money—liabilities for expenditures in excess of budget. The estimates of expenditures, itemized and classified as required in Section 4613.2, and as finally fixed and adopted by said board of county commissioners, shall constitute the appropriations for the county for the fiscal year intended to be covered thereby, and the county commissioners, and every other county official shall be limited in the making of expenditures or incurring of liabilities to the amount of such detailed appropriations and classifications, respectively; provided that upon a resolution adopted by the board of county commissioners at a regular or special meeting, and entered upon its minutes, transfers or revisions within the general class of salaries and wages and of maintenance and support may be made, provided, that no salary shall be increased above the amount appropriated therefor. Transfers between the general classes provided in Section 4613.2 shall not be permitted, provided and except that in the case of appropriations to be expended from county road or bridge funds, special road district funds, or any special highway fund, any transfer between or among the general classes of (1) salaries and wages, (2) maintenance and support, and (3) capital outlay, may be made."

This section is part of the County Budget Act and is intended to limit expenditures during the fiscal year to the amounts finally fixed by the budget board. It provides, however, in the case of appropriations for roads, bridges, special road districts and special highway funds, transfers between or among certain classes may be made during the fiscal year.

Section 4631, Revised Codes of Montana, 1935, is a general statute relating to county finances in general and provides:

"Section 4631. County commissioners to transfer funds. The board is authorized to transfer all surplus moneys that may be on hand in any of the several county funds, except the school fund, to such fund or funds as they may deem for the best interest of the county, or to appropriate said surplus moneys to the payment of the outstanding indebtedness of the county; but no moneys belonging to the school fund must be taken therefrom except for school purposes."

It will be noted this section authorizes the transfer of surplus moneys only. There cannot be any surplus until the end of the fiscal year, as the board cannot be certain until such time that the appropriations for these funds will not be needed. There is no conflict between these two sections.

It is, therefore, my opinion the board of county commissioners may, at the end of the fiscal year, transfer any surplus money in the poor or bridge fund to the road fund.

Sincerely yours,

JOHN W. BONNER
Attorney General