

No. 217

SALES OF COUNTY PROPERTY—TRUCKS, sale by
county—COUNTIES

Held: It is necessary for a county to advertise for sale the trucks now owned and to sell the same for cash under the provisions of Section 4465.9, Revised Codes of Montana, 1935, and such trucks may not be traded in on new equipment after notice given pursuant to Section 4605.1, as amended, unless at such public auction no one bid on said trucks.

August 21, 1941.

Mr. Leonard A. Schulz
County Attorney
Beaverhead County
Dillon, Montana

Dear Mr. Schulz:

You have submitted to this office the following proposition:

"The Board of County commissioners desires to purchase one or more new trucks of a value in excess of \$1000.00, and, as a part of the purchase price, to turn in to the seller of the new vehicles one or more of the trucks now owned by the county, such trucks last mentioned being of a value in excess of \$100.00.

"Section 4465.9, Revised Codes of Montana, 1935, dealing with the sales of county property of an appraised value in excess of \$100.00, requires that the same be sold at public auction after published notice for four successive weeks, etc.; and that if no bid of at least 90% is received, the same may thereafter be sold at private sale. Section 4605.1, Revised Codes of Montana, 1935, as amended by Chapter 42, of the 1941 Session Laws, relating to the purchase by County Commissioners of property of a value in excess of \$1000.00, requires that published notice for three consecutive weeks calling for bids must first be had; and that the contract must be let to the lowest and best responsible bidder, etc."

You have asked our opinion on the following questions:

"Is it necessary to advertise the trucks now owned for sale and to sell the same for cash, under the provisions of Section 4465.9; or may such trucks be traded in on new equipment, after notice given, pursuant to Section 4605.1, as amended?"

This office has devoted a great deal of attention to your problem because we realize in many instances the county will receive a better offer for the used trucks by turning them in on new ones than will be received by selling the trucks at a public auction. However, we find no authority by which the county commissioners can dispense with the requirements laid down in Section 4465.9, Revised Codes of Montana, 1935. However beneficial to the county the proposed procedure might be, we realize all we can do is interpret the law as it exists and any changes which are needed to be made in the law will have to be made by the legislature.

It is therefore my opinion it is necessary for the county to advertise for sale the trucks now owned and to sell the same for cash under the provisions of Section 4465.9, Revised Codes of Montana, 1935, and such trucks may not be traded in on new equipment after notice given pursuant to Section 4605.1, as amended, unless at such public auction no one bid on said trucks.

Sincerely yours,

JOHN W. BONNER
Attorney General