

Opinion No. 191.

**Board of County Commissioners—
County Commissioners—Authority to
Transfer Funds—Salaries and Wages—
Budgets.**

Held: The board of county commissioners does not have authority to authorize a transfer in the probation officer's budget from the salaries and wages account to the capital account.

March 17, 1944

Mr. Robert Weir, Chairman
Board of County Commissioners
Cascade County
Great Falls, Montana

Dear Mr. Weir:

You have submitted the following question and requested my opinion thereon:

"Will you kindly advise us if it will be possible for the probation officer of Cascade County to use seventy dollars (\$70.00) out of a three hundred dollar fund budgeted last July for salaries for extra help? The probation officer now finds it unnecessary to employ such extra help but desires to use the said seventy dollars to partition part of his office as a consultation room."

In answering your inquiry it will be noted that you, as a board of county commissioners, are restricted by the county budget law, and specifically Section 4613.2, Revised Codes of Montana, 1935, which section in part is as follows:

"Such estimates, appropriations and expenditures shall be classified under the **general classes** of (1) **salaries and wages**; (2) **maintenance and operation**; (3) **capital outlay**; (4) **interest and debt redemption**; (5) **miscellaneous**; and (6) **expenditures proposed to be made from bond issues not yet authorized, or from the proceeds of a tax levy or levies which are required to be submitted to and approved at an election to be thereafter held.**" (Emphasis mine.)

"Expenditures for capital outlay shall be set forth and describe each object of expenditure separately . . ."

Section 4613.5, Revised Codes of Montana, 1935, in part is as follows:

" . . . 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 . . ." (Emphasis mine.)

The only two exceptions to this straight-jacket provision are as follows:

" . . . 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." (Emphasis mine.)

It should be pointed out that the last above quoted part of Section 4613.5, Revised Codes of Montana, 1935, provides as follows:

"First: That upon a resolution being adopted by the board of county commissioners and entered upon their minutes, the board may authorize transfers or revisions **within** the general class of salaries and wages, but that no salary shall be increased above the amount specifically appropriated therefor.

"Second: The board by resolution may permit transfers or revisions **within** the general class of maintenance and support.

"Third: That in the case of appropriations to be expended from (a) county road funds, (b) county bridge funds, (c) special road district funds, (d) any special highway funds; that any transfer between or among the general classes of (1) salaries and wages, (2) maintenance and support,

and (3) capital outlay, in said funds, may be made.

"Fourth: Transfers between the general classes provided in Section 4613.2, Revised Codes of Montana, 1935, otherwise than the two foregoing exceptions shall not be permitted." (Emphasis mine.)

It is apparent that the budget for the probation office does not fall within the exceptions noted. This proposal is no doubt meritorious. But our Supreme Court has held:

"The fact the contemplated action may be in the best interests of the county is not an admissible argument. The doctrine of expediency does not enter into the construction of statutes." (76 Mont. 150, 156, 245 Pac. 962.)

It is therefore my opinion the board of county commissioners does not have authority to authorize a transfer in the probation officer's budget from the salaries and wages account to the capital account.

Sincerely yours,
R. V. BOTTOMLY
Attorney General