

Opinion No. 114

County Commissioners—Budget
—Funds.

Held: Funds appropriated under the budget and specifically detailed under the budget item "Capital Outlay," for a specific purpose, may not be used for any other purpose during the fiscal year for which appropriated.

April 27, 1948

Mr. W. A. Brown
State Bank Examiner
Capitol Building
Helena, Montana

Dear Mr. Brown:

You have advised that at the time the Silver Bow County Budget for the fiscal year 1947-1948 was adopted, the Commissioners appropriated under Capital Outlay, the sum of \$8,000.00 for the purchase of an addressograph; later it developed that the contemplated purchase did not materialize, nor will it materialize during the fiscal year; that sometime after the Budget had been adopted the Commissioners deemed it necessary to install an additional heating boiler, some additional plumbing and some additional radiators in the basement of the courthouse, but for which no provision had been made in the Budget.

You have requested my opinion as to whether or not the funds appropriated in the Budget under the item "Capitol Outlay," and itemized for the purchase of an addressograph, may now be expended in installing additional heating boiler, plumbing and radiators in the basement of the courthouse?

It is a well established principal of law that a Board of County Commissioners has only such powers as are expressly granted it by statute, or such powers as are necessarily implied to carry out those specifically granted. It is also well established that such a board to justify its action in any respect must point to a specific statute granting it authority.

State ex rel. Blair v. Kuhr
86 Mont. 377, 283 Pac. 758
Judith Basin County ex rel.
Vralsted v. Livingston
89 Mont. 438, 298 Pac. 356

In the expenditure of county funds, the Board is guided and bound by the provisions of the Budget Act, (Sections 4613.1 to 4613.10, inclusive, Revised Codes of Montana, 1935) and is limited in expenditures in the several items of the budget as finally adopted. Section 4613.5 specifically provides:

"The estimate of expenditures, itemized and classified as required in section 4613.2 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 liabilities to the amount of such detailed appropriations and classifications, respectively; . . ." (Emphasis mine).

In the Budget in question, the Board set out the detailed appropriation under the item "Capital Outlay," a specific sum for a specific purpose, to-wit, purchase of an addressograph. There was no indication anywhere in the Budget as adopted that any sum was to be used for installing a heating boiler, plumbing and/or radiators. It is provided in Section 4613.2, "Expenditures for capital outlay shall set forth and describe each object of expenditure separately."

"The fact that the contemplated action may be in the best interest of the county is not an admissible argument. The doctrine of expediency does not enter into the construction of statutes." (Franzke v. Fergus County, 76 Mont. 150, 158, 245 Pac. 962.)

The Budget act provides for the preparation of a preliminary budget and for a hearing thereon on the

Wednesday immediately preceding the second Monday in August (Section 4613.4), "at which any taxpayer may appear and be heard for or against any part of such budget." This section further provides that the board may, and upon request of any taxpayer, shall call in any official for questioning relative to any item of said budget. The evident purpose of these provisions is to give the taxpayer the opportunity to object to the expenditure of the funds for any specific object or purpose. At any rate, it is obvious that the legislature intended that the taxpayers have the opportunity to know what the officials intended to spend the money for, and were afforded an opportunity to object if they so desired. A taxpayer might not object to the purchase of an addressograph for use of the county, but might object to the spending of money from this item for installation of a boiler, or radiators.

It is, therefore, my opinion that funds appropriated under the budget and specifically detailed under the budget item "Capital Outlay," for the specific purpose of "purchasing an addressograph," may not be used for any other purpose during the fiscal year for which appropriated.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General