

Opinion No. 6**County Commissioners—County Salary Claims—Publication of County Claims—Airport Boards and Commissions—Claims—Publication.**

Held. (1) Section 4465.20, Revised Codes of Montana, 1935, requires publication of the full amount of salary paid each person and it is not sufficient to publish the net amount, being the amount of salary less deductions.

(3) Publication of claims of airport boards and commissions is not mandatory since such claims are ordered paid by the airport boards and commissions and not by the County Commissioners.

January 28th, 1949.

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

Attention: Mr. A. M. Johnson, First Assistant State Examiner

Dear Sir:

You have certified two questions to this office for my determination. Your first question arises out of interpretation of Opinion No. 135, Report and Official Opinions of Attorney General, Volume 22. This opinion held that the board of county commissioners must publish in a newspaper a complete list of all claims which said board has ordered paid for all purposes, including salary claims of all employees, other than elected county officers, showing the name, the purpose and the amount thereof, and a fair summary of the minutes and records of all of its proceedings. Your question is:

"Is it mandatory to have published the full amount of salary paid each person, or is it sufficient just to show the net amount paid to each salary claimant, being the amount of salary less deductions such as United States withholding tax and other deductions like hospitalization dues, etc."

Section 4465.20, Revised Codes of Montana, 1935, sets out the statutory requirements for publications of proceedings of boards of County Commissioners and in so far as is pertinent to your question reads as follows:

"The board of County Commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: At the adjournment of each session of the board to cause to be published in a newspaper, a complete list of all claims ordered paid for all purposes showing the name, purpose and amount, and a fair summary of the minutes and records of all of its proceedings, . . ."

An answer to your question necessitates an inquiry into the meaning of the word "claims". Webster's New International Dictionary, 2nd Edition, 1941, defines "claims" as follows:

"A right to claim something; a title to any debt, privilege, or other thing in possession of another."

In the case of *Marsh v. Benton County*, 75 Iowa 469, 39 N. W. 713, the court said:

"The term 'claim' is defined by Webster as 'a demand made of a right, or supposed right; a calling on another for something due, as a claim for wages or services.' It must state the amount claimed."

The above mentioned authorities would seem to indicate that "claim" means the amount due and owing, the value of the debt. If the figure published by the county boards is the net amount paid to each salary claimant after subtracting withholding taxes, and not the full amount of salary, it would appear that Section 4465.20, *Supra*, is not being complied with. The amount paid on such county warrants is not actually the amount of the "claim" but rather is the amount due and owing less withholding taxes. The law requires publication of the "claim" and not a figure reached after taxes have been subtracted from such claim. The county employee does not claim for the amount actually paid to him but rather he claims for a larger amount and receives a lesser amount because of taxes withheld.

The purpose of Section 4465.20, *Supra*, was to inform the taxpayer how his money was being spent and the amount spent. A list of claims which only showed the net amount paid after taxes had been withheld would not divulge the true amount that the county actually paid out. The taxpayer could only guess at the additional amount that the county had to pay but withheld for taxes and paid to the federal government. Therefore, it is my opinion that the full amount of salary paid to each person and not the net amount should be published in accordance with Section 4465.20.

Your second question cites Opinion No. 27, Report and Official Opinions of Attorney General, Volume 18, and you state that such opinion held that publication of claims paid by the county fair commission is not required by Section 4465.20, *Supra*. Your question is as follows:

"This confronts our department as to the requirements of the publication of claims paid by County Airport Boards or Commissions. Airport fund claims that are paid by them are approved by them who issue their own warrants, and the secretary of the Airport Board submits a list of all claims and amount, to the County Commissioners, and these disbursements are taken into account in the general books of the county and the warrants are paid or registered by the county treasurer as other county warrants. Is it required that County Airport Fund claims be also published in detail, or otherwise?"

Sections 5668.35 to 5668.40, inclusive, Revised Codes of Montana, 1935, as amended by Chapter 54, Laws of 1941, provide for the establishment, maintenance, and financing of airports by counties, cities or towns either individually or by joint action of a County and one or more cities or towns within its border.

Section 3 of Chapter 54 reads as follows:

"That Section 5668.37 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

'Section 5668.37. The county, city or town, or the county and any city or cities, town or towns acting jointly as herein authorized, having established an airport or landing field and acquired property for such purpose, may construct, improve, equip, maintain, and operate the same, and for that purpose may create a board or body from the inhabitants of such county, city or town, or such joint subdivisions of the state, for the purpose of conferring upon them and may confer upon them the jurisdiction for the improvement, equipment, maintenance and operation of such airport or landing field. . . .

For the purpose of meeting the charges hereinbefore mentioned when the airport or landing field is such joint venture, a joint fund shall be credited and maintained into which each of the political subdivisions interested shall deposit its proportionate share in accordance with the predetermination of the board of County Commissioners and council, or councils, affected.

All disbursements from such fund shall be made by order of such joint board or body, if one be created as hereinabove authorized, otherwise under such rules and regulations as the joint control by the commissioners and council or councils may adopt."

The above mentioned section specifically provides that when the airport is a joint venture and a joint board or body has been created that disbursements shall be made on the order of such board or body. Section 4465.20, *Supra*, provides only for publication of claims paid by order of the Board of County Commissioners. As stated in Opinion No. 27, Vol. 18, *Supra*, while it may be good practice to publish claims of various bodies so that the public may be informed as to how its money is being spent, I am of the opinion that in the absence of express statutory provision publication of claims is not mandatory.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.