

the printing of assessment lists the charge set forth in the statute is the maximum rate which may be charged and this is so whether the said lists are printed on one or two sides.

April 18, 1952.

Mr. Ludvig Tande
County Attorney
Sheridan County
Plentywood, Montana

Dear Mr. Tande:

You have requested my opinion as to the interpretation to be given Section 16-1209, Revised Codes of Montana, 1947. More specifically you ask whether the allowed prices are the same regardless whether the assessment lists are printed on one or both sides. The section under consideration reads as follows:

Opinion No. 76

**County Printing—Assessment Lists—
County Commissioners**

Held: Chapter 118, Laws of 1937, as amended, prescribes the maximum rates to be charged for county printing. In respect to

“Assessment Lists.

Printed 1 or 2 sides	1000	2000	3000	Add'l 1000
Size 8½x14 in duplicate, gathered, padded, perforated	\$65.05	\$ 91.35	\$117.35	\$27.55
If original only, padded	48.40	56.55	64.70	8.25
Bound in books of 50 or 75 sets add	6.60	9.90	13.20	3.30
Size 8¾x15 to 9½x16½ or 9½x17 in duplicate	74.15	104.05	133.40	28.05
If original only, padded	56.00	65.05	73.80	10.25
If bound in books of 50 or 75 sets add	7.60	12.65	17.05	5.00
Size 14x17 in duplicate	79.30	127.70	163.05	33.75
If original only, padded	68.20	78.10	88.25	10.45
If bound in books of 50 or 75 sets add	8.80	14.55	18.15	6.05”

The foregoing section was first enacted as Section 9, Chapter 118, Laws of 1937; amended by Section 6, Chapter 250, Laws of 1947; amended by Section 1, Chapter 127, Laws of 1949; re-enacted Section 1, Chapter 138, Laws of 1951. The 1947 amendment to the act added the words “Printed 1 or 2 sides” (supra).

An examination of Chapter 118, as amended, discloses that the purpose of the act was to set forth the regulations to be followed by county commissioners in contracting for public printing, to fix the prices for the public printing, and to provide penalties for

the violation of the act. The legislature stated the limitations on the county commissioners' actions by enumerating and classifying the different forms and specifications for each type of form or document printed together with the maximum charge for the particular work completed. It is further to be noted that provision was made in the act for additional allowable charges for printing on both sides in specific instances, however, under Section 16-1209, Revised Codes of Montana, 1947, relative to the printing of assessment lists, no provision is made for additional charges, but on the contrary the

prices are set out in detail together with the express language "Printed 1 or 2 sides". The board of county commissioners is a body of limited powers and must in every instance justify its actions by reference to the provisions of law defining and limiting its powers. (State ex rel. Bowler v. Board of Comm'rs of Daniels County, 105 Mont. 464, 76 Pac. (2d) 648).

In *Hersey v. Neilson*, 47 Mont. 132, 131 Pac. 30, in an action brought against the county commissioners of Hill County to enjoin the commissioners from allowing an account for printing, the court said:

"That the authority of the board of county commissioners of Hill county to let a contract for county printing must be found written in the statutes, or necessarily implied, or it does not exist, is well understood (citing cases)."

In the case of *Shelley v. Normile*, 109 Mont. 117, 94 Pac. (2d) 206, which was an action brought by a taxpayer for an injunction to enjoin the county commissioners from carrying out a contract for county printing and printing supplies entered into by them with a newspaper, the court in referring to Chapter 118, Laws of 1937, stated:

" * * * If, however, the statutory rate were exceeded then the statutory rate would control. In other words, there is an automatic maximum price written into the contract by the statute which is a part thereof."

In view of the explicit provisions of the Act as to the specifications and allowable prices to be charged, it would not be reasonable to read into the plain words of Section 16-1209, Revised Codes of Montana, 1947, a meaning which would permit of a construction, other than the words expressed.

It is, therefore, my opinion that Section 16-1209, Revised Codes of Montana, 1947 sets forth the maximum charge permitted for the printing of assessment lists and this is so whether the said lists are printed on one or two sides.

Very truly yours,
ARNOLD H. OLSEN
Attorney General