

Opinion No. 72.**Special Examination by State Examiner — Payment For — County Commissioners — Cemetery Districts.**

HELD: That when a board of county commissioners requests a special examination of the fiscal affairs of a cemetery district, the county is liable for the expenses of examination as prescribed by Section 5-910, R. C. M., 1947.

April 29, 1954.

Mr. John P. Moore
County Attorney
Glacier County
Cut Bank, Montana

Dear Mr. Moore:

You have requested my opinion as to the liability of your county for services of the state examiner for a special examination of the affairs of a cemetery district in Glacier county. You advise me that the board of county commissioners requested the examination.

Authority for special examinations by the state examiner is found in Section 5-910, R. C. M., 1947, as amended by Chapter 58, Laws of 1953, which reads in part as follows:

"Special examinations may be made of any county . . . board or commission . . . however created, and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description when in the judgment of the state examiner it shall be deemed necessary and such special examinations shall be charged for at the rate of thirty dollars (\$30.00) a day for each person engaged in the examination plus the necessary transportation expenses and per diem at the rate currently in effect for all state and county employees . . ."

There can be no doubt that public money is expended for the operation of a cemetery district as Section 9-209, R. C. M., 1947, as amended by Chapter 93, Laws of 1951, authorizes a maximum levy of two mills for the operation of the district. This code section also states:

"The board of cemetery trustees shall annually present a budget to the board of county commissioners at the regular meetings as prescribed by law . . ."

As the budget for a cemetery district is examined and considered by the board of county commissioners in conjunction with the regular county budget, the county commissioners have a duty, if only in a supervisory capacity, in regard to the fiscal affairs of cemetery districts. In the discharge of this duty the board of county commissioners requested the special examination for which the claim was submitted by the state examiner, and by so requesting the examination incurred an obligation for the services.

It is, therefore, my opinion that when a board of county commissioners requests a special examination of the fiscal affairs of a cemetery district the county is liable for the expenses of examination as prescribed by Section 5-910, R. C. M., 1947.