

June 29, 1954.

Mr. Edward J. Ober
County Attorney
Hill County
Havre, Montana

Dear Mr. Ober:

You have requested my opinion concerning the application of the county budget law to the county's portion of the budget of a joint airport. You advise me that the city of Havre and Hill county are joint owners of the airport which was established in 1942. You state that there will be approximately \$18,000 cash on hand for the next fiscal year and ask if this cash may be used to increase the maximum budget.

While the airport was established under Chapter 108, Laws of 1929, as amended by Chapter 54, Laws of 1941, and prior to Chapter 288, Laws of 1947, which latter statute is known as the "Municipal Airports Act," yet the airport would be operated under the provisions of the latter statute. My basis for this conclusion is the provision of Section 1-826, R. C. M., 1947, which was enacted as Section 19 of Chapter 288, Laws of 1947, and reads as follows:

"This Act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of municipal airports."

One of the pertinent provisions of Chapter 288, Laws of 1947, is now subdivision 1 of paragraph (d) of Section 1-821, R. C. M., 1947, which states:

"The total expenditures to be made by the joint board for any purpose in any calendar year shall be determined by a budget approved by the governing bodies of its constituent public agencies."

The above quoted section does not need construction and is conclusive that a budget must be adopted by the joint board operating an airport and such budget must be approved by both the city and the county. However, if

Opinion No. 81.

**Airport Budgets—Maximum Budgets—
County Budget Act.**

HELD: 1. The county's portion of the budget for a joint airport must comply with, and be adopted in accord with, the county budget law.

2. Increase in appropriations for any one item in a county budget must not exceed ten per cent with the exception of the capital outlay item.

3. The maximum budget for a joint airport is the sum of the cash on hand, estimated revenues, and proceeds of the maximum authorized levy.

we were to assume that an airport established before Chapter 288, Laws of 1947, would not be governed by this statute, the general provisions of the budget law would apply to the fiscal affairs of the airport. Section 16-1901, R. C. M., 1947, provides in part as follows:

"On or before the first day of June of each year the county clerk and recorder of each county shall notify in writing each county official, elective or appointive, in charge of an office, department, service or institution of the county to file with such county clerk and recorder, on or before the tenth day of June following, detailed and itemized estimates, both of the probable revenues from sources other than taxation, and of all expenditures required by such office, department, service or institution for the next succeeding fiscal year . . ."

This provision is all inclusive and covers each department, service or institution of the county. In other words, the county budget law applies to all county functions. A like conclusion was reached by this office in Opinion No. 44, Volume 25, Report and Official Opinions of the Attorney General, where it was held that a cemetery district was bound by all the provisions of the county budget Act.

The maximum budget for a jointly established airport was discussed in 22 Report and Official Opinions of the Attorney General 26, No. 27, where it was held that Section 1-804, R. C. M., 1947, authorizes a two mill levy to be made by each participating subdivision, the county and the city, for the use of the airport. The maximum budget for an airport is the sum of the cash on hand, anticipated operational revenue, and the proceeds of the maximum levy. Such limitation is expressed in Section 16-1904, R. C. M., 1947, in the following language:

" . . . total expenditures authorized to be made from any fund, including reserve added thereto as hereinafter provided, shall not, in any event, exceed the aggregate of the cash balance in such fund at the close of the fiscal year immediately preceding, the

amount of estimated revenues to accrue to such fund, as determined and fixed in the manner herein provided, and the amount which may be raised for such fund by a lawful tax levy during the fiscal year."

An additional limitation on expenditures for any one item in the budget is found in Section 16-1904, supra, where it is provided:

" . . . the amount appropriated and authorized to be expended for any item contained in such budget, except for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants and interest thereof, must not exceed by more than ten per centum (10%) the amount actually expended for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding . . ."

The fact that an exception is made of expenditures for capital outlay is most material in the expansion of an airport.

It is, therefore, my opinion:

1. The county's portion of the budget for a joint airport must comply with, and be adopted in accord with, the county budget law.
2. Increase in appropriations for any one item in a county budget must not exceed ten per cent with the exception of the capital outlay item.
3. The maximum budget for a joint airport is the sum of the cash on hand, estimated revenues and proceeds of the maximum authorized levy.