

Opinion No. 82.

**Counties—Purchases, Equipment and
Supplies—Public Bidding.**

HELD: The public bidding requirements of Section 16-1803, R. C. M., 1947, as amended by Chapter 128, Laws of 1951, apply to all purchases of equipment, materials and supplies for a county.

June 30, 1954.

Mr. Robert O'Donovan
County Attorney
Missoula County
Missoula, Montana

Dear Mr. O'Donovan:

You have requested my opinion upon the following question:

"Do the provisions of Section 16-1803, R. C. M., 1947, as amended by Chapter 128, Laws of 1951, apply to all purchases of equipment, materials and supplies for a county, or only to purchases of automobiles, road machinery and similar equipment?"

Section 16-1803, R. C. M., 1947, as amended by Chapter 128, Laws of 1951, is a general section providing for open and competitive bidding upon purchases of county equipment for which more than \$2,000 must be paid. Paragraph (1) of that section provides:

"(1) No contract shall be entered into between a board of county commissioners for the purchase of any automobile, truck, or other vehicle, or road machinery, or for any other other machinery, apparatus, appliances or equipment, or for any materials or supplies of any kind, for which must be paid a sum in excess of two thousand dollars (\$2,000.00) without first publishing a notice calling for bids for furnishing the same, which notice must be published at least once a week, for three (3) consecutive weeks before the date fixed therein for receiving bids, in the official newspaper of the county, and every such contract shall be let to the lowest and best responsible bidder; provided that the provisions of this section shall not apply to contracts for public printing entered into in accordance with the provisions of Chapter 12 of Title 16 and provided further, that the provisions of this section shall not apply to contracts for purchases, which in the opinion of the board, are made necessary by fires, flood, explosion, storm, earthquake, or other elements, epidemics, riot, insurrection, or for the immediate preservation of order, or of the public health, or for the restoration of a

condition of usefulness which has been destroyed by accident, wear, tear, mischief, or for the relief of a stricken community overtaken by calamity." (Emphasis supplied.)

The present wording of this section was established by Chapter 42, Laws of 1941. Prior to that Act the pertinent portion of the section (enacted as Chapter 87, Laws of 1935) read as follows:

"No contract shall be entered into by a board of county commissioners for the purchase of any automobile, truck or other vehicle, or road machinery, or other machinery, apparatus, appliances or equipment, or materials, or supplies of any kind, for which must be paid a sum in excess of one thousand dollars (\$1,000), without first publishing a notice calling for bids for furnishing the same, which notice must be published at least once a week, for three consecutive weeks before the date fixed therein for receiving bids, in the official newspaper of the county, and every such contract shall be let to the lowest and best responsible bidder: . . ."

The quoted provision of the former law was in issue in the case of *State ex rel. Bowler v. Board of County Commissioners*, 106 Mont. 251, 76 Pac. (2d) 648. The contention was made in that case that contracts for county printing were subject to the provisions of the Act, because printing was a "supply" within the meaning of the section. The court held that county printing was governed by special statute which removed it from the scope of Section 16-1803, *supra*, and said:

"The general words 'or supplies of any kind' are not to be construed in their widest extent, but are to be held as applying only to the things of the same general kind or class immediately preceding the words, and in Section 4605.1 refer to automobiles, trucks, or other vehicles, machinery, equipment, or materials used in connection therewith . . ."

The legislative changes in the section were made by Chapter 42, Laws of 1941, after the decision in the *Bowler*

case. That Act added the proviso that the requirements of the chapter should not apply to printing contracts, and inserted the word "for" preceding the words "any other machinery, apparatus, appliances or equipment," and preceding the words "any materials or supplies of any kind." These changes were quite evidently designed to remove any doubts that may have arisen after the decision in the Bowler case. The well recognized rule, that the legislature, in making a change in the language of an existing statute intended a change in the meaning, applies here. (See *Mitchell v. Banking Corp.*, 95 Mont. 23, 24 Pac. (2d) 124; *Federal Land Bank v. Hays*, 86 Mont. 58, 282 Pac. 32; *Public Service Comm. v. Brannon*, 86 Mont. 200, 283 Pac. 202, 67 A. L. R. 1020.) The 1941 changes in the Act made the statute applicable to all contracts made by a county for equipment, materials, and supplies of any kind.

It is, therefore, my opinion that the public bidding requirements of Section 16-1803, R. C. M., 1947, as amended by Chapter 128, Laws of 1951, apply to all purchases of equipment, materials and supplies for a county.