

Opinion No. 21-3196

November 28, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: State Tax Commission, Santa Fe, New Mexico.

Alteration of County Budget by Board of County Commissioners After Approval By Tax Commission.

OPINION

{*101} I have before me letter from Mr. Valentin Torres, Clerk of Socorro County, enclosing copy of a resolution of the Board of County Commissioners providing that the levy in that county for salary fund for the year 1921 should be amended to read .00192.

You ask if the Board of County Commissioners have authority, after the budget has been approved by the Commission and certified to the Board, to make alterations or amendments by increasing or decreasing the levy covering funds of the budget.

Subsection 8 of Section 506, Chapter 133, Laws 1921, imposes upon the Tax Commission the duty of amending, revising and correcting the county budgets as submitted to the Commission, and after approval of the budgets as so amended, revised or corrected, to certify the same to the Board of County Commissioners on or before the first Monday in October of each year.

The act then continues:

"Such budgets when approved by the Commission shall be binding upon all tax officials of the state."

The budgets as defined are to contain an estimate in detail of the financial needs of the districts and the counties, and are to be in such form as shall be prescribed by the Commission.

Section 305, Chapter 133, Laws 1921, imposes upon the Board of County Commissioners the duty of making the tax levies, which levies shall conform to and be within the budgets or estimates for such year as approved by the State Tax Commission. The State Tax Commission is required to levy the state taxes. (Sec. 304, Chap. 133, Laws 1921.)

It would appear, therefore, that while the Tax Commission has the authority and must pass upon the budgets and finally approve the amounts for the different purposes which may be raised by taxation in each county, that it is the duty of the Boards of County

Commissioners to determine upon and make the levies that will produce the amounts so specified in the budgets.

If it will require a levy of .00192 to produce the amount allowed by the Commission for salaries in the Socorro County budget, then such a levy would be justified. On the other hand, if the {*102} amount provided for by the budget for salaries will result from a levy as specified in the budget as approved by your Commission, then the change ordered by the resolution of the Board of County Commissioners could not be legally made.

I am returning to you herewith the letter and copy of the resolution of the Board of County Commissioners heretofore mentioned.