



STATE OF IDAHO

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September 16, 1986

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THIS IS NOT AN OFFICIAL ATTORNEY GENERAL OPINION,  
AND IS SUBMITTED SOLELY TO PROVIDE LEGAL GUIDANCE

RE: USE OF UNUSED FUNDS AT END OF FISCAL YEAR

Dear Mr. Robinson:

We understand from recent telephone conversations and from your letter the Boundary County Prosecuting Attorney's Office wishes to contract for additional legal secretarial services with unused 1985-1986 "B" budget funds before the year ends. You have requested from our office all statutory and case law that will aid and assist you in obligating present unused budget funds for secretarial services on behalf of the Boundary County Prosecuting Attorney's Office.

Idaho Code § 31-1502, among other things, provides that when funds have been accumulated for a special purpose and the fund shall have become inoperative, it shall be lawful for the Board of County Commissioners to transfer the remaining monies to such fund as the county commissioners deem best.

Idaho Code §§ 31-2608 through 31-2610 provide for employment of county stenographers by the County Commissioners. Idaho Code § 31-3107 provides generally for employment of deputies and assistants for county officers. Idaho Code § 31-816 provides that county commissioners may fix the compensation of all county officers and provide for the method of payment of the same.

Idaho Code § 31-1606 provides that expenditures are limited to the amount of the county budget as finalized through the budget proceedings, but then it goes on to make exceptions for road and bridge funds and another exception is made for salaries. The section provides that no salaries may be increased during the year after the final budget is adopted without resolution of the Board of County Commissioners, which resolution shall be entered in the county commissioners' minutes. This provision means that existing salaries may be increased during the year by resolution of the Board of County Commissioners.

After considering this matter carefully, it is our advice that you should prepay "B" budget items this year, then next year have the commissioners take action to increase salaries under Idaho Code § 31-1606.

Statutes which may be of use to you to consider are Idaho Code § 31-1608 which authorizes expenditure of funds in emergency situations and Idaho Code §§ 31-1502 and 31-1607 which authorize the district courts to determine expenditure of funds.

An Idaho case that may be of use to you is McNeel, Inc. v. Canyon County, 76 Idaho 74, 227 P.2d, 554 (1954), where it was held that the courts can order payment of a contract, although the contract is not provided for by the county budget.

You might also look at the wording of Idaho Code § 31-1608 in regard to the prosecuting attorney's office and the use of extra or emergency funds. This section allows the use of funds to pay for settlement of approved tort claims (approved claims for personal injuries or property damages) or to meet mandatory expenditures required by law or to investigate and prosecute crimes punishable by death or life imprisonment. In effect, the section means all of the above things qualify as emergency situations. The use of this section requires a unanimous resolution by the Board of County Commissioners.

We hope that these possible methods of use of the funds remaining in your budget will be of aid to you.

Sincerely,



Warren Felton  
Deputy Attorney General  
Intergovernmental Affairs

WE/mkf