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General Services HLB

February 6, 2024

The Attorney General's Office
Attn: Opinions Editor
PO Box 40100
Olympia, WA 98504-0100

RE: Request for Informal Opinion

To Whom It May Concern:

The County Road Administration Board (CRAB) is a Washington State agency governed by a nine-member Board whose duties are defined by [RCW 36.78.070](#). At the request of our Board, we request an informal opinion on an issue specific to [RCW 36.81.130](#) and how it relates to the Agency's role in oversight and regulatory compliance.

[RCW 36.81.130](#) requires "the county road engineer to submit a recommended plan for the laying out, construction, and maintenance of county roads for the ensuing fiscal year". This is commonly called the Annual Construction Program (ACP). The legislative authority is then required to adopt the ACP, as amended by them, prior to the adoption of the county road budget for the ensuing fiscal year. Per [RCW 36.81.130](#), any appropriations contained in the county road budget shall be void unless the county's road plan (ACP) was adopted prior to such appropriation.

All counties are required under [WAC 136-16](#) to submit to CRAB their adopted annual program for the upcoming year no later than December 31st. We have a county, Asotin County, that was delinquent in meeting this requirement. When staff contacted Asotin County to determine the status of the submittal, CRAB was notified that they had not adopted an ACP for 2024. Upon hearing this, staff notified Asotin County of [RCW 36.81.130](#) and that their county road budget was statutorily void. CRAB recommended that they consult their Prosecuting Attorney's office and their Chief Financial Officer to determine how to correct this issue and then implement the recommendation. As a result, an ACP was adopted January 8, 2024, with the resolution stating that the adoption was retroactive to January 1, 2024. The Board of County Commissioners did not take any action specific to the county road budget after adopting the ACP on January 8th. They had previously adopted the county road budget on December 11, 2023.

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Based on the narrative and timeline above, the questions that we are seeking an opinion on are:

1. Does Asotin County have a lawful county road budget for 2024?
2. If the answer to the first question is no:
 - a. What actions must Asotin County take to have a lawful county road budget for fiscal year 2024?
 - b. Can Asotin County use county road funds to pay for any expenses such as wages, benefits, goods and services, contractor payments, etc., incurred between January 1, 2024, and the date the BOCC adopts a lawful county road budget?
 - c. Are there any other legal issues caused by the county working without an adopted county road budget?
3. If a public agency uses one resolution to adopt all of their budgets, and the resolution does not have severability language, does one budget being found to be void or unlawful cause all of the other budgets adopted by the same resolution to be void?

We are happy to meet with you either in-person or by Teams to discuss further or provide clarification.

Sincerely,

A handwritten signature in blue ink that reads "Jane Wall". The signature is fluid and cursive, with the first name "Jane" being more prominent than the last name "Wall".

JANE WALL
Executive Director
County Road Administration Board

CC:

Albert Wang – Assistant Attorney General

Drew Woods – Deputy Director, County Road Administration Board

Derek Pohle – Support, Training and Compliance Manager, County Road Administration Board