

May 7, 1925.

OPINION No. 1214.

ESTIMATES FOR TAX RATE:

The Treasurer may not require the various Boards of Supervisors, in making their estimates under subdivisions 1, 2 and 3 of Section 1315 of the Revised Laws of Hawaii 1925, to include a detailed statement of receipts for the preceding year, as shown on the books of the City and County Auditor, and hence need not fix the respective amounts in dollars for subdivisions 1 and 2 of said section, at a figure ten per cent (10%) less than that for the preceding year, when a Board of Supervisors fails to amend its previous estimate in accordance with a demand by the Treasurer that it include, among other things, such information.

Honorable Henry C. Hapai,
Treasurer, Territory of Hawaii,
Honolulu, Hawaii.

Sir:

On the 13th ultimo you addressed the Attorney General asking, in substance, whether or not Resolution No. 438, as passed by the Board of Supervisors of the City and County of Honolulu, constitutes a sufficient estimate by the Board for the purposes of subdivisions 1, 2 and 3 of Section 1315 of the Revised Laws of Hawaii 1925, in view of the facts, first, that you had demanded, by letter dated subsequent to the receipt by you of said Resolution but prior to April 25th, detailed estimates of

(a) receipts from January 1, 1924, to December 31, 1924, as shown by the books of the City and County Auditor;

(b) receipts from January 1, 1925, to

December 31, 1925;

(c) expenditures from January 1, 1925, to December 31, 1925;

(d) separate totals for each department;

and second, that the estimates as contained in said Resolution are not detailed estimates. You ask "has the Treasurer the authority to fix the respective amounts in dollars for subdivisions 1 and 2 at a figure 10% less than that for the preceding year," but the question more properly is, in view of the mandatory provision of the statute, *must* the Assessor, with the approval of the Treasurer, so fix those respective amounts.

On the 15th ultimo you addressed the Attorney General, calling his attention to the fact that erroneous estimates had been forwarded by said Board in 1922, 1923 and 1924 for subdivision 3 of said Section 1315, and had been used as submitted in fixing the tax rates for those years, with the result that \$49,040.98 had been raised and paid over to the City and County on account of interest and sinking fund for certain bond issues over and above the amounts that should properly have been raised and paid over. Your question in this connection was whether or not the Assessor, with your approval, might readjust this situation by a proper deduction from the amount estimated in said Resolution No. 438, as required under subdivision 3 of said Section 1315.

Both of these matters have been turned over to me by the Attorney General for disposition.

In the meantime, you have informed me orally that the Board, on April 25th, forwarded to you Resolution No. 184 (1925), the same being the Board's amended estimates under said subdivisions 1, 2 and 3, wherein the situation of which you complain in your letter of the 15th ultimo is satisfactorily adjusted by a

deduction in the estimate for subdivision 3, from \$89,000.00, as contained in Resolution No. 438, to \$39,959.02. This obviates the necessity of any further discussion of your request of the 15th ultimo.

The remaining question turns upon two portions of Section 1315, namely, the statement that "these estimates shall be in such form as the Territorial Treasurer may from time to time prescribe," and the subsequent proviso "that if any of the several Boards of Supervisors shall not transmit to the Assessor and the Territorial Treasurer by April 25 in each year its estimate of the amounts required under subdivisions 1, 2 and 3, the Assessor, with the approval of the Territorial Treasurer, shall fix the respective amounts in dollars for subdivisions 1 and 2 at a figure 10% less than that for the preceding year; adding thereto the amount necessary or required, in his judgment, for subdivision 3."

Although the estimate in Resolution No. 184 (1925) under subdivision 1 is reduced by \$100,000.00—the estimate for subdivision 2 being left the same—none of the three estimates is in any more detail than was the corresponding estimate in Resolution No. 438.

You are hereby advised that the Board of Supervisors, having forwarded to you its usual and customary form of estimate, prior to the prescribing by you of any form to be used therefor, and you subsequently having prescribed a form which in part was unreasonable and unenforceable—namely, calling for receipts from January 1, 1924, to December 31, 1924, as shown on the books of the City and County Auditor—the Board of Supervisors was justified, if for no other reasons, in failing to file amended estimates in the form prescribed by you.

It follows, therefore, that the Assessor, with your approval, need not fix the respective amounts in dollars

for subdivisions 1 and 2 of Section 1315, at a figure 10% less than that for the preceding year.

Respectfully,

H. R. HEWITT,

First Deputy Attorney General.

APPROVED:

WILLIAM B. LYMER,

Attorney General.