

VOLUME NO. 35

Opinion No. 66

BOARD OF COUNTY COMMISSIONERS — Lease of county fairgrounds, monies deposited in poor fund; **COUNTIES** — County property, fairgrounds, lease of, monies deposited where; **COUNTIES** — Fairs, fair commission, leases, monies deposited in fair fund; **COUNTIES** — Funds, deposit of, fairground leases; **COUNTIES** — Funds, poor fund, fairground leases by county commissioners; **COUNTIES** — Funds, fair fund, fairground leases by fair commission; **COUNTY COMMISSIONERS** — Powers, county fairs, appointment of fair commission; **COUNTY COMMISSIONERS** — Powers, lease of fairgrounds and buildings; **COUNTY FAIRS** — County fair commission, monies from operation and leases deposited in fair fund; **FAIRS** — Commission, powers of; **FAIRS** — Commission, monies from operation and leases deposited in fair fund; **FAIRGROUNDS** — Leases, county commissioners; **FAIRGROUNDS** — Leases, county fair commission; **FUNDS** — County, fair receipts, fair fund. Sections 16-1154, 16-1155, 16-1401, and 16-1402, R.C.M. 1947.

- HELD:**
1. Monies generated from the leasing of fairground buildings by the county commissioners must be deposited in the county poor fund.
 2. Monies generated from the operation and lease of fairgrounds and buildings by the county fair commission must be deposited in the county fair fund.

January 28, 1974

Mr. J. Fred Bourdeau
Cascade County Attorney
Office of the County Attorney
Great Falls, Montana 59401

Dear Mr. Bourdeau:

You have requested my opinion on the following question:

Whether monies derived from the operation and leasing of county fairgrounds and buildings shall be deposited in the county poor fund or the county fair fund.

You have suggested in your inquiry that there is a conflict between section 16-1155, Revised Codes of Montana, 1947, and section 16-1402, R.C.M. 1947, in that section 16-1155 provides that:

All moneys received from the **leasing of fairgrounds** shall be **deposited in the poor fund of the county.** (Emphasis supplied)

and that section 16-1402 provides that monies derived from the **leasing of buildings and fairgrounds:**

... **shall [be] return[ed] to the fair fund** of the county ... (Emphasis supplied)

Section 16-1154, R.C.M. 1947, authorizes the **county commissioners** "to lease for limited periods of time county fairgrounds and buildings. However, no such lease shall be issued "within three (3) weeks prior to the holding of a county fair.

Section 16-1155, supra, requires all **monies received by the county commissioners** from the leasing of the fairgrounds to be deposited in the county poor fund.

Chapter 11, Title 16, is a chapter entitled "Special Powers of County Commissioners". Pursuant to chapter 11, county commissioners are authorized to lease county fairgrounds and buildings for a limited period of time, but in no case within three (3) weeks of the county fair. All revenue derived from such leases must be deposited in the county poor fund.

On the other hand, section 16-1401, R.C.M. 1947, authorizes the county commissioners to appoint a **county fair commission** for the purpose of "organizing and successfully carrying on the county fair."

Section 16-1402, R.C.M. 1947, provides:

Said county fair commissioners shall have control and operation of the fair and the supervision and management of the fairgrounds and also the **leasing of buildings and fairgrounds and shall return to the fair fund** of the county **all revenue obtained from the leasing or renting of the same....** (Emphasis supplied)

Thus, it is apparent that chapter 11 relates to the power of the county commissioners to enter into lease agreements of the county fairgrounds and buildings associated therewith, and that any and all revenues derived therefrom shall be deposited in the county poor fund.

Chapter 14 concerns the power of the county fair commissioners to organize county fairs to include the leasing of buildings and the fairgrounds. It is apparent that section 16-1402, supra, applies only to revenue generated by the county fair commissioners while exercising their powers and duties in county fair matters. All such revenues derived from county fair activities supervised by the county fair commissioners must be credited to the "fair fund".

Thus, the question of which fund monies derived from a lease of fairgrounds and buildings must be deposited in depends upon whether the county commissioners or the county fair commission executed the lease as lessor. If the county commissioners were the lessor, then the monies must be deposited in the county poor fund. If the county fair commission was the lessor, then the monies must be deposited in the county fair fund. It is therefore apparent that sections 16-1155 and 16-1402 are not in conflict with each other.

THEREFORE, IT IS MY OPINION:

1. Monies generated from the leasing of fairground buildings by the county commissioners must be deposited in the county poor fund.
2. Monies generated from the operation and lease of fairgrounds and buildings by the county fair commission must be deposited in the county fair fund.

Very truly yours,

ROBERT L. WOODAHL
Attorney General