

Special Counsel—County Commissioners—County Attorneys—Employment—Criminal Cases—Civil Cases.

The board of county commissioners has no authority to employ special counsel except for the purpose of assisting the county attorney in the prosecution of criminal cases or to represent the county in any civil action to which the county is a party.

December 8, 1927.

J. H. McAlear, Esq.,
County Attorney,
Chester, Montana.

My dear Mr. McAlear:

You have requested my opinion whether the county commissioners are authorized to employ special counsel to advise them on matters affecting county business.

Section 4486, R. C. M. 1921 provides as follows:

“The board of county commissioners has the power, except in counties of the first class, whenever, in its judgment, the ends of justice or the interests of the county require it, to employ, or authorize the county attorney to employ, special counsel to assist in the prosecution of any criminal case pending in such county, or to represent said county in any civil action in which such county is a party.”

It is well settled that the board of county commissioners has only such authority as is delegated to them by statute, and I find no authority for the employment of counsel by the board of county commissioners other than that expressed in section 4486, supra.

I am therefore in full accord with your opinion that the county commissioners have no authority to employ special counsel except for the purpose of assisting the county attorney in the prosecution of criminal cases or to represent the county in any civil action in which such county is a party.

Very truly yours,

L. A. FOOT,
Attorney General.