

No. 386

**PUBLIC WELFARE—COUNTIES—COUNTY COMMISSIONERS—POOR FUND LEVY—REIMBURSEMENTS,
defined**

Held: Under the provisions of Chapter 112, Laws of 1941, a county must first use the proceeds of the levy authorized thereunder to pay reimbursements due the State Department of Public Welfare for old age assistance, aid to needy dependent children and aid to needy blind, due on June 30, 1941, before applying any of such proceeds to other floating indebtedness.

March 28, 1942.

Mr. J. B. Convery
State Administrator
State Department of Public Welfare
Helena, Montana

Dear Mr. Convery:

You have requested my opinion on the following statement of facts:

"Lincoln County has sent us a warrant drawn on its 'Poor Fund Debt Reduction Fund,' which fund is derived from the proceeds of a special tax levy made by Lincoln County through authority of Chapter 112 of the 1941 Session Laws of Montana. The warrant is made payable to the Department of Public Welfare in the amount of \$2,125.48. Of this amount \$1,094.29 is in payment of reimbursements due this department for the July, 1939, Old Age Assistance and Aid to Dependent Children payments. The remainder of \$1,031.19 is in payment of the county's share of co-sponsorship with this department of the Lincoln County units at Libby and Eureka of the Works Progress Administration Statewide Sewing Room Project for the operating period of July 26, 1940, through July 25, 1941.

"This department sponsored the W. P. A. Statewide Sewing Room Project and each county having a sewing room unit or units co-sponsors with us for a proportionate share of the costs. A claim is mailed by this department to each county for the amount of its co-sponsorship. The payments are deposited in our bank account, and our checks, payable to the Treasurer of the United States, are sent to the Works Progress Administration at Butte in payment of the co-sponsorship contributions.

"Can this department accept the above warrant of Lincoln County or must all payments, drawn by a county against a 'Poor Fund Debt Reduction Fund,' be first applied to reimbursements due this department for Old Age Assistance, Aid to Dependent Children, and Aid to Needy Blind payments made prior to June 30, 1941, until such indebtedness is paid in full?"

The answer to your question must necessarily depend upon the construction to be given the provisions of Chapter 112 of the Laws of 1941.

In construction of statutes, the legislative intention controls; and such intention is to be determined from the apparent purpose of the enactment. (*McNair v. School Dist. No. 1 of Cascade County*, 87 Mont. 423, 288 Pac. 188.) The meaning given to the language of the lawmakers is such as will effectuate the object and purpose of the law. (*Great Northern Utilities Co. v. Public Service Commission*, 88 Mont. 180, 293 Pac. 294.) To ascertain the intention of the legislature, recourse must be had to the language employed in and the apparent purpose to be subserved by the statute. (*Campbell v. City of Helena*, 92 Mont. 366, 16 Pac. (2nd) 1.) In addition to these rules of construction, there is another well defined rule which is pertinent here, and that is that all acts relating to the same subject, or having the same general purpose as the statute being construed, should be read in connection with such statute. (*State v. Bowker*, 63 Mont. 1, 205 Pac. 961.)

Chapter 112, Laws of 1941, deals with the county poor fund. Its purpose is to enlarge the authority of the county commissioners by permitting them to increase the legal levy for the poor fund in order to provide additional funds to carry out the purposes of the Public Welfare Act, Chapter 82, Laws of 1937, as amended. Hence, it is necessary to consider the provisions of Chapter 82, Laws of 1937, affected by those of Chapter 112, Laws of 1941, in order to determine the intention of the legislature, as expressed in the provisions of said Chapter 112.

Under the provisions of Subdivision (a), Section XIX, Part I, Chapter 82, Laws of 1937, all checks in payment of public assistance, as provided for in each part of the act, with the exception of general relief, are issued by the State Department of Public Welfare and drawn on state funds. And under Subdivision (b) of this section, the county department must make reimbursement of its share of such assistance to the state department. This is in conformity with the purpose of the Public Welfare Act: that assistance given the needy aged under Part III, the needy dependent children under Part IV, and the needy blind under Part V shall be contributed in specified proportions by the state, county and federal government. For purposes of convenience and dispatch, the payment is made directly by the state department, and in turn the county reimburses the state department. The county share is derived from the poor fund and the state share from appropriations made by the legislature. Hence, if the county does not make its reimbursement, the state funds are depleted to this extent, and the state department is thereby jeopardized in meeting its share of these grants.

When the Legislative Assembly of 1941 met, several of the counties were indebted to the state department for reimbursements in large amounts. This condition came about because of the fact these particular counties were unable to make reimbursements from their poor fund for the reason the then legal poor fund levy of six mills, together with income from other sources, was insufficient to meet the necessary expenditures of the poor fund and make the reimbursement. It is therefore quite obvious Chapter 112, Laws of 1941, was enacted to provide additional funds so these counties could liquidate this indebtedness to the state.

A careful reading of the provisions of Chapter 112, Laws of 1941, leads to the conclusion it was the intention of the legislature the proceeds from this one mill levy should first be applied to the payment of the reimbursements due by the county.

While it is true the legislature intended the proceeds of this extra mill levy should be used to pay all outstanding legal indebtedness of the poor fund existing on June 30, 1941, it is clear from a reading of all the provisions of Chapter 112, supra, it was the intention of the legislature reimbursements due for old age assistance, aid to needy dependent children and aid to needy blind should be paid first.

Section 3 of Chapter 112, Laws of 1941, provides:

"If it shall appear from said resolution that there is any amount of money in the poor fund in excess of the amount required for such estimated expenditures then such excess shall be applied in payment of such floating indebtedness, provided, that if the resolution shall show that the county is owing (owing) any amount or amounts to the state public welfare department for reimbursements, then any such excess, or so much thereof as may be necessary, shall be applied in payment of such amount or amounts owing to such state public welfare department." (Emphasis mine.)

Section 4 of Chapter 112, Laws of 1941, provides, in part:

". . . provided, that if said resolution shall show any amount or amounts owing to the state public welfare department or to any of its funds, the proceeds of such levy or levies shall first be applied to the payment thereof and any remaining amount of such proceeds shall then be applied to the payment of such other floating indebtedness . . ." (Emphasis mine.)

It is evident the legislature intended by this statute the portion of the county share of these forms of assistance, advanced from state funds and not repaid, should first be returned to the state department before any other indebtedness of the county be paid.

The portion of the warrant of Lincoln County apportioned by it to be credited to its indebtedness for its share of the cost of sewing room projects co-sponsored with the state is in nowise a reimbursement contemplated by the legislature in Chapter 112, supra. In my opinion, such amount is rather within the term "other floating indebtedness," used in Section 4, supra, to be paid after reimbursements are paid. Lincoln County, therefore, is without authority to pay this item of indebtedness from the proceeds of this extra levy, until all of its reimbursement debt has been paid.

It is therefore my opinion a county must first use the proceeds of the levy authorized by Chapter 112, Laws of 1941, to pay reimbursements due the state department of public welfare on June 30, 1941, for old age assistance, aid to needy dependent children and aid to needy blind before applying any of such proceeds to the payment of other floating indebtedness due on said date. It follows, therefore, you may not accept the warrant of Lincoln County in the form presented.

Sincerely yours,

JOHN W. BONNER
Attorney General