

No. 455

**PUBLIC WELFARE—GRANTS-IN-AID—
COUNTIES—POOR FUND**

Held: Where no part of the floating indebtedness of the poor fund existing on June 30, 1941, remains unpaid, a board of county commissioners is without authority to make the levies provided under Chapter 112, Laws of 1941, and failure to do so, under such condition, will not make the county ineligible for grants-in-aid.

July 27, 1942.

Mr. E. P. Conwell
County Attorney
Carbon County
Red Lodge, Montana

Dear Mr. Conwell:

I have your letter of July 15, 1942, enclosing a copy of the opinion rendered by you at that date to the Board of County Commissioners. The specific questions considered in your opinion are the following:

"1. In view of the fact that Carbon County has no floating indebtedness in its poor fund as of June 30, 1942, could the Board of County Commissioners legally, under Chapter 112, Laws of 1941, make a special tax levy of not exceeding one mill for the fiscal year July 1, 1942, to June 30, 1943?

"2. Should the Board of County Commissioners fail to make such special levy, then could the State Department of Public Welfare, under Section 5, Chapter 112, Laws of 1941, in view of the fact the County Poor Fund does not owe the State Department any amount

of money, refuse Carbon County grants-in-aid—providing the County Commissioners comply with all other requirements for such grants-in-aid as outlined in Part 2, Chapter 82, Laws of 1937, as amended?”

In your opinion you have answered both the above questions in the negative. I agree with your opinion.

Chapter 112, Laws of 1941, was enacted for the specific purpose of permitting the several counties of the state to liquidate their indebtedness then due to the State Department of Public Welfare for reimbursements. Many of the counties at that time were unable to make their reimbursements from the poor fund income, realized by the six mill levy and other sources, and at the same time take care of the necessary expenditures of the poor fund. The language used in Chapter 112 is very plain and unambiguous and needs no interpretation. It is only for the purpose of paying the floating indebtedness, including reimbursements to the State Department of Public Welfare, which were due at the close of business on June 30, 1941, that the levies provided by this act were authorized to be made. When such indebtedness is paid from the levies authorized for the fiscal years 1941-1942 and 1942-1943, authority for such additional levies ceases.

Therefore, Carbon County—not having any unpaid balance of floating indebtedness in its poor fund existing as of June 30, 1942—cannot make a levy under the provisions of Chapter 112, Laws of 1941.

Section IX of Part II of Chapter 82, Laws of 1937, as amended by Chapter 129, Laws of 1939, and Chapter 117, Laws of 1941, provides the conditions to be met by the county commissioners before the county is entitled to a grant-in-aid from state funds. In Opinion 124 of Volume 19, Report and Official Opinions of the Attorney General, these conditions were specifically interpreted and it was there held that when met, the county was entitled to a grant-in-aid, if unable to meet the requirements of relief under the Public Welfare Act. The only instance where a county would be ineligible for a grant-in-aid for failure to make the levies under Chapter 112 is where, having floating indebtedness as of June 30, 1941, the county commissioners failed to make such levies. This is not the case here.

It is my opinion that, where no part of the floating indebtedness of the poor fund existing on June 30, 1941, remains unpaid, a board of county commissioners is without authority to make the levies provided under Chapter 112, Laws of 1941, and failure to do so, under such condition, will not make the county ineligible for grants-in-aid.

Sincerely yours,

HOWARD M. GULLICKSON
Attorney General