

VOLUME NO. 35

Opinion No. 40

COUNTY COMMISSIONERS — Weed control districts, expenditures must be approved; WEED CONTROL — Districts, financing, expenditures approved, how; WEED CONTROL — Districts, financing, proceeds of work or chemical sales, disposition. Sections 16-1713 and 16-1717, R.C.M. 1947.

- HELD:**
- 1. Proceeds from work or chemical sales of weed control districts must be credited to the noxious weed fund for reuse within the fiscal year.**
 - 2. The county weed control board may expend monies from the noxious weed fund only with the approval of the county commissioners.**

December 6, 1973

Mr. John P. Moore
Glacier County Attorney
Office of the County Attorney
Cut Bank, Montana 59427

Dear Mr. Moore:

You have asked my opinion as to whether the income derived from the work or chemical sales of weed control districts may be expended by the county weed control board in addition to the regular sum budgeted for the noxious weed fund created under section 16-1717, Revised Codes of Montana, 1947.

Section 16-1717, *supra*, provides:

The board of county commissioners of any county in this state may create a noxious weed control and weed seed extermination fund, either by appropriating money from the general fund of the county, or at any time fixed by law for levy and assessment of taxes, levy a tax not exceeding two (2) mills on the dollar of total taxable valuation in such county, the proceeds of which shall be used solely for the purpose of promoting the control of noxious weeds or extermination of weed seed in said county and shall be designated to "noxious weed fund" and **any proceeds from work or chemical sales shall revert to the noxious weed fund and shall be available for reuse within the fiscal year.**

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This fund shall be kept separate and distinct by the county treasurer, and shall be expended by the commissioners at such time, and such manner, as is by said supervisors deemed best to secure the control and extermination of noxious weeds and weed seed. Warrants upon such fund shall be drawn by the supervisors, provided that no warrants shall be drawn except upon claims duly itemized by the claimant, except payroll claims which shall be itemized and certified by the supervisors, each such claim shall be presented to board of county commissioners for its approval before the warrant therefor shall be countersigned by the commissioners.

It is apparent from the above statute that any revenue from work or chemical sales by the weed control districts must be credited to the noxious weed fund for reuse within the fiscal year.

You also indicated that the funds are expended by the county weed control board. However, expenditure of the noxious weed fund is governed by section 16-1717, supra. The statute specifically states that the funds are expended by the county commissioners at the request of the supervisors appointed by the commissioners pursuant to section 16-1713, R.C.M. 1947. In addition, all warrants upon the fund must be drawn by such supervisors, and all claims must be presented to the county commissioners for approval before being countersigned by the commissioners.

THEREFORE, IT IS MY OPINION:

Based upon the above considerations, that all proceeds from work or chemical sales must be credited to the noxious weed fund for reuse within the fiscal year, and that the county weed control board may expend such funds only with the approval of the county commissioners.

Very truly yours,

ROBERT L. WOODAHL
Attorney General