

County Commissioners. Public Printing, Contract for. County Bonds, Issuance of. Vacancies, Appointments to Fill.

1. No contract can be let for public printing in Sanders County until the act creating the county takes effect.

2. The Commssioners of Sanders County may issue bonds for the payments of indebtedness of Missoula County assumed by Sanders County under the authority conferred by Section 7 of the act creating Sanders County. Any other bonds issued must be under the authority of the general law. Sec. 4240 as amended by laws of 1905, page 78, referred to.

3. Boards of County Commissioners have authority at any general meeting or at any special meeting called for that purpose, to make appointments to fill vacancies in township and county offices.

Helena, Montana, Mar. 2nd, 1906.

Hon. C. H. Ritenour, Chairman, Board of County Commissioners, Plains, Montana.

Dear Sir:—I beg leave to acknowledge receipt of your letter of February 26th, submitting certain questions for the consideration of this office.

First: As to when the contract for public printing should be let?

Under the provisions of Sec. 4233, the contract for public printing must be entered into by the county commissioners.

There were no county commissioners in Sanders County, nor was there any Sanders County until the act creating the county took effect, that is, "from and after March 1st, 1906. Any previous contract you have entered into respecting county printing is not legal. It is not necessary, however, that you should readvertise for bids for county printing. You have the power to execute the same contract you have heretofore agreed to, but it cannot bear date prior to the date when you execute it as county commissioners.

Second: As to the power of the board to issue bonds for county indebtedness.

Section 7 of the act creating Sanders County (Laws of 1905, page 18), authorizes the board to issue bonds for the payment of any indebtedness which may be incurred by reason of assuming any of the indebtedness of Missoula County. This act itself does not authorize the issuance of any other bonds, nor for any other purpose. However, by the provisions of Section 3 of the act, "all laws of a general nature applicable to the several counties of the State of Montana and the officers thereof shall be made applicable to the said County of Sanders."

The general laws of the state conferring power upon the board of county commissioners to issue bonds apply to Sanders County. You will find this authority in Section 4240 of the Political Code as that section is amended by the laws of 1905, Chapter 41, page 78, and you are authorized as a board of commissioners to issue bonds within the limits prescribed in this amended section. You must, of course, keep in mind Section 5, Article 13 of the State Constitution relating to the limitation of indebtedness, which, however, is the same as the limitation which is prescribed in said amended Section 4240.

Third: As to the power and authority and time of filling vacancies in county offices.

Sub-division 19, Section 4230 of the Political Code, confers upon the board of county commissioners power to fill any vacancies which "may occur in county, township, or precinct offices." This may be done at any regular meeting of the board, or at any special meeting of the board called for that purpose. The act creating Sanders County does not specifically authorize any meeting of the board on the 1st day of March, and your first regular meeting will be on the 1st Monday of March under the provisions of Section 4220 of the Political Code, and you may, at that time, fill any vacancies which you may find existing in any of the offices.

On the first Tuesday in March, your board will meet as members of the commission at Missoula for the purpose of adjusting the indebtedness between the two counties, and in this connection, though not requested by you, I may with propriety call your attention to the case of Holliday vs. Sweet Grass County, 19 Mont. 364, which may be of service to you in case any question arises as to when the warrant of Sanders County should be drawn in favor of Missoula County for the amount of the old indebtedness which Sanders County assumes under the settlement made by the commission.

Very truly yours,

ALBERT J. GALEN,

Attorney General.