

**Board of Health, Expenses Incurred Under the Law.**

Local or county boards of health should not allow differences to occur respecting small items of expense upon questions of the primary duty to act, respecting matters involving public health within three miles of the limits of an incorporated city.

Helena, Montana, July 23, 1907.

Dr. Thomas D. Tuttle,  
Sec. State Board of Health,  
Helena, Montana.

Dear Sir:—

I am in receipt of your favor of June 25th. asking for an opinion from this office with reference to the question as to whether the City or County is liable for the expense incurred in removing a dead horse within three miles of the limits of an incorporated city. In this connection you say that the authorities of the city of Billings claim that the expense incurred in removing such horse should be borne by the County, and that the County claims that such expense should be borne by the City.

After an examination of the law and of the regulations of the State Board of Health, I am of the opinion that the duty rests primarily upon the city for the reason that its police authority for the enforcement of this law extends three miles beyond the city limits. However, the item of expense in any such case cannot be great, and were the county health officer to find a dead carcass outside of the limits of a city it would in my judgment, be proper for him to see to its proper disposition in the interest of the public health, and likewise proper for the county to audit and pay the expense by him incurred in so doing. Both the local and county boards of health are charged with the duty of looking to the strict enforcement of this law, and small differences with respect to the cost of protecting the public health should not become the subject of controversy. Let both the local and county boards of health be more co-operative and magnanimous, and let them not stand on technicalities, particularly when of such a trivial nature, and thereby to interfere with the proper execution of the law.

If questions of like character be again presented to you, arbitrarily settle them by direction such as you believe to be the best interest of your department and the proper enforcement of this law. By the provisions of Section 24 Chap. 110 Laws 1907, cities and counties are both given ample authority to approve and pay such claims.

Yours very truly,

ALBERT J. GALEN,

Attorney General.