

Public Moneys, Deposit of by County Treasurers. County Treasurers, Duty of to Deposit Public Moneys in Banks. Board of County Commissioners, Duty of With Reference to Banks. Banks, Soundness of.

It is the duty of the board of county commissioners to inquire into the soundness and financial condition of the various banks in their county; and it is the duty of the county treasurer to equitably prorate all deposits among the banks in his county which have been approved by the board of county commissioners.

Under the provisions of Sec. 4, Chapter 88, Laws 1913, it is incumbent upon the county treasurer to deposit all public moneys in his possession and under his control (except such as may be required for current business), in the various banks upon the date when this law becomes effective.

May 13th, 1913.

Hon. T. F. Shea,
County Attorney,
Deer Lodge, Montana.

Dear Sir:

I beg to acknowledge receipt of yours of the 6th instant, pro-

pounding some questions as to the interpretation of Chapter 88 of the Laws of the Thirteenth Legislative Assembly, relative to deposits of public moneys by county treasurers.

You point out in your letter a seeming discrepancy in the language used in the first and second paragraphs of the law, wherein the banks in which public moneys are to be deposited are designated—the first paragraph prescribing that:

“It shall be the duty of the county treasurer to deposit all public moneys in his possession and under his control, except such as may be required for current business, in any solvent bank or banks located in his county, subject to national supervision for state examination as the board of county commissioners shall designate and no other.”

And the second paragraph prescribing that:

“When more than one such bank may be available in any county, such deposits shall be distributed ratably among all such banks, qualifying therefor, * * * and it shall be the duty of the county treasurer to pro rate all such deposits among all the banks in his county qualified to receive the same, as in this act provided, to the end that an equitable distribution of such deposits be maintained.”

While a first reading of the above quoted language might give the impression that it was mandatory upon the county treasurer to pro rate all such deposits among all the banks in his county, I think that a careful examination of the language and punctuation used will show that the words “qualified to receive same as in this act provided,” especially limit and qualify the meaning of the term “all the banks in his county.” Under the terms of this act it becomes the province of the board of county commissioners to examine into the soundness of the various banks in the county and the financial standing of the same, and they are at liberty to reject any and all applications from banks to receive deposits of public funds if in their sound discretion such banks would not be safe depositories for public funds, and the words “qualified to receive same as in this act provided” intend a qualification based upon the stamp of approval placed upon the various institutions by the board of county commissioners. The recommendation of the board of county commissioners is the qualification intended by the language in the second paragraph of the act. Therefore, the meaning of the second paragraph is that it shall be the duty of the county treasurer to prorata all such deposits among all the banks in his county, which have been approved by the board of county commissioners in such a way that there shall be equitable distribution of such deposits:

As to the second question raised by your letter:

“At what time are the deposits to be made in accordance with the new statute?”

I will say that the Legislature provided in Sec. 4 of the act as follows:

“This act shall be in full force and effect sixty days after its passage and approval.”

It seems to me that this language makes it incumbent upon the county treasurer to deposit all public moneys in his possession, and under his control, except such as may be required for current business, in the various banks upon the date when this law becomes effective. It was approved March 14, 1913. In view of the fact that the Legislature has by express language indicated when the act shall take effect, I think we are bound to give it the effect of that language, since if they had intended some other date as the beginning of the fiscal year, they would have indicated as much by the language of the statute.

Very truly yours,

D. M. KELLY,
Attorney General.