

Board of County Commissioners, Authority to Retain Special Counsel. Special Counsel, Authority to Retain.

For general rule, see Opinion to Board of County Commissioners, Thompson Falls, Montana, March 2, 1910.

July 25th, 1913.

Hon. Board of County Commissioners,
Fort Benton, Montana.

Gentlemen:

I am in receipt of your letter of the 24th instant, submitting the question:

"Has the board of county commissioners authority to retain special counsel for pay in the event of the absence, refusal or inability of the county attorney to perform such services?"

This question was once before this department in an opinion given to the honorable board of county commissioners of Thompson Falls, Montana, under date March 2, 1910, reported in Opinions Attorney General, 08-09, and for the reasons therein stated it was held that the board of county commissioners did not have authority and might "not employ additional counsel for the purpose of securing advice, etc. This is generally the case. No hard and fast rule can be drawn, however, for emergency cases might arise during the absence of the county attorney which would not admit of delay, and where the business interests of the county might demand immediate action. No specific case is stated in your inquiry, and I can do no more than give the general rule, which you will find stated in the opinion above referred to, a copy of which is now in the hands of the county clerk of your county.

Very truly yours,

D. M. KELLY,
Attorney General.