

**County Warrants.**

It is not necessary for a county warrant to be signed by the chairman of the board of county commissioners.

April 10, 1917.

Hon. H. S. Magraw,  
State Examiner,  
Helena, Montana.

Dear Sir:

You have submitted to me the question of whether or not county warrants signed and attested by the County Clerk should not also be signed by the chairman of the board of county commissioners.

Section 763 of the 5th division of the Compiled Statutes of Montana, of 1887, was as follows:

"County orders shall be signed by the chairman and attested by the clerk, and shall specify the nature of the claim or service for which they were issued".

Section 762 of the Compiled Statutes of 1887, immediately preceding the Section above quoted, was re-enacted as Section 4286 of the Political Code of 1895, with some slight changes, which is now Section 2945 of the Revised Codes of 1907. Section 764 of the Compiled Statutes of 1887, immediately following the Section above quoted, was re-enacted as Section 4288 of the Political Code of 1895, with some slight changes, which is now Section 2947 of the Revised Codes of 1907.

It will be noted that the Section of the Compiled Statutes of 1887 requiring county orders to be signed by the chairman of the board was dropped in the revision of the codes of 1895. Section 2894 (12) of the Revised Codes of 1907, gives the county commissioners power at regular meetings of the board to examine, settle and allow all accounts legally chargeable against the county, except the salary of officers, and order warrants to be drawn on the county treasurer therefor, and provide for the issuing of the same. By Section 2949 warrants drawn by order of the board of county commissioners on the county treasurer must specify the liability for which they are drawn. By Section 3045 (3) it is made the duty of the county clerk to draw warrants on the county treasurer in favor of all persons entitled thereto, in payment for all claims and demands chargeable against the county, which have been legally examined, allowed and ordered paid by the board of county commissioners. And by Section 2986 (5) it is made the duty of the county treasurer to disburse the county moneys only on county warrants issued by the county clerk, based on orders of the board of county commissioners.

The authority to issue county orders and warrants is a statutory one. The power to allow claims and to order the issuance of county warrants is vested in the fiscal officers of the county, usually the board of county commissioners, to be exercised at a meeting of such board. As a general rule the actual issuance is a ministerial duty to be performed by the clerk upon the direction of the proper authorities.

11 Cyc. 532-3;

Schorn v. Williams, (Cal.) 43 Pac. 8;

American Bridge Co. v. Wheeler, (Wash.) 76, Pac. 535.

In view of the foregoing it would appear to me that it is not necessary for a county warrant to be signed by the chairman of the board of county commissioners, but that the claim upon which it is based must be duly allowed and approved by the board of county commissioners at a regular meeting of the board, and an order made for its payment, and that the clerk issues a warrant based upon the order of the board.

Respectfully,

S. C. FORD,

Attorney General.