Board of County Commissioners—Power to Employ Seed Grain Agent to Handle Collections.

A Board of County Commissioners is not authorized by law to employ a seed grain agent to handle collections.

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State Examiner,
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My dear Mr. Skelton:

You have inquired whether County Commissioners are authorized to employ a seed grain agent to handle matters in connection with seed grain loans including collection of the loans and renewals of mortgages, such agent having been employed in one or more counties.

By the provisions of the Seed Grain Act, which is Chapter 19 of the Laws of the Extraordinary Session of 1918, as amended by Chapter 53 of the Laws of 1919, the administration of the law is made by the duty of the County Commissioners, the County Clerk, the County Treasurer and the Sheriff. Sections 25, 26, 33 and 34 of said Chapter 19 require the loans to be collected by the County Treasurer either by receiving payment of the same from the debtor or by collecting the same in the manner that taxes are collected, and the Sheriff is required to make a levy in certain cases. Thus a method of collecting the loans is provided by the Act itself.

Subdivision 22 of Section 2894 of the Revised Codes of 1907 as amended by Chapter 15 of the laws of 1919, in enumerating the powers of county commissioners, reads as follows:

> "To represent the county and have the care of county property, and the management of the business and concerns of the county in all cases where no other provision is made by law."

However, this section gives the general authority therein provided to the County Commissioners only in cases where no other provision is made by law, and provision having been made for the administration of the law in the Seed Grain Act itself, Subdivision 22 of Chapter 15 of the Laws of 1919 has no application.

State ex rel. Nelson v. Timmons, 57 Mont. 602.

It has long been settled in this State as well as in other states that Boards of County Commissioners must look to the statute for their authority, and that they have no powers except such as are specifically given by statute or necessarily implied from those so given.

Edwards v. Lewis and Clark County, 53 Mont. 359;
Morse v. Granite County, 44 Mont. 78;
State v. Cronin, 41 Mont. 293;
State v. Coad, 23 Mont. 131.

There is nothing in the law authorizing the County Commissioners to employ a seed grain agent or pay out funds of the county for that purpose. On the contrary they are precluded by the provisions in the statute giving the administration of the law to certain officers from placing it in the hands of anyone else.

State ex rel. Nelson v. Timmons, 57 Mont. 602, supra.

The case of Chase v. Board of County Commissioners, 86 Pac. 1011 decided by the Colorado Supreme Court under statutes similar to ours as to the authority of County Commissioners, is authority for the above conclusion, and there many cases relating to the subject are assembled and discussed. To the same effect is State ex rel. Attorney General v. Fry, 95 Pac. 392, which cites the Chase case, supra, with approval, and reaches the same conclusion.

See, also:

Whittinghill v. Commissioners, 174 Pac. 489;
State v. Field, 172 Pac. 1136;
News-Dispatch v. Board of Commissioners, 161 Pac. 207.

It is, therefore, my opinion that a Board of County Commissioners is not authorized by law to employ a seed grain agent to act independently of the county officers charged by the Seed Grain Act with the administration of the law, but that said Act is required to be administered through the regular county officers.

Very truly yours,
WELLINGTON D. RANKIN,
Attorney General.