

Animals—Livestock—Livestock Sanitary Board—State.

The State of Montana is liable for its share of the indemnity for animals destroyed by order of the Livestock Sanitary Board, though the county and the Federal Government refuse to pay their proportionate share.

Dr. W. J. Butler,
State Veterinary Surgeon,
Helena, Montana.

My dear Dr. Butler:

You have submitted to this office the question as to whether the state is liable for its share of indemnity for livestock destroyed by order of the Livestock Sanitary Board because of said livestock being infected with tuberculosis.

It appears that the Board of County Commissioners of the county where the animal was destroyed refused to sign a certificate certifying to pay partial compensation for the reason that the assessment of the animal did not appear upon the 1923 assessment roll.

Subdivision 4 of Section 3271, Revised Codes of 1921, provides:

“Where an animal killed by order of the board, or of its agent, does not appear on the last assessment roll of the county liable for indemnity, then its assessed valuation herein referred to as a basis for indemnity shall be equal to the minimum assessed valuation for animals of the class and age such animal would have been at the last past assessment time in the county.”

Paragraph 5 of this same section provides the method of determining the value of animals too young to have been assessed at the time of assessment. They are appraised by the State Veterinary Surgeon, or his agent, and paid for according to that appraised value.

Section 3274 provides for the presentation of claims for indemnity against the state and county for animals destroyed. Section 3273 provides that “for animals or property destroyed by order of the Livestock Sanitary Board, the state shall pay one-half of such indemnity * * * and the county liable in part for the indemnity, as such county is determined by this Act, shall pay one-half part of such total indemnity. * * *”

Section 3275 provides:

“Claims against the state arising under this Act, and when passed by the Board of Examiners, shall be examined by the State Auditor, and if found correct, he shall issue a warrant upon the State Treasurer for the amount payable by the state and charge the same to any funds or account at the disposal of the Livestock Sanitary Board.”

Section 3278 provides that the owner of any animal or property destroyed shall be entitled to indemnity, except in the cases set out in this section. None of the exceptions would excuse payment.

It is, therefore, my opinion that the state is liable for its share of the indemnity, even though the county and federal government refuse to pay their proportionate share.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.