

Counties—Depositories—Banks and Banking—County Treasurer—Funds.

County treasurers are without authority to deposit public funds in a bank outside the state of Montana.

Jay G. Larson, Esq.,
State Bank Examiner,
Helena, Montana.

March 1, 1926.

My dear Mr. Larson :

You have requested my opinion whether a county treasurer may deposit public moneys in banks outside of the state of Montana where the local banks fail to qualify.

The statute authorizing the deposit of public funds in banks is found in chapter 137, laws of 1925, and provides :

“It shall be the duty of all county, * * * treasurers to deposit all public moneys in his possession and under his control in any solvent bank or banks located in the county, * * * of which such treasurer is an officer, subject to national supervision or state examination, as the board of county commissioners, * * * may designate, and no other.”

It further provides :

“If no such bank exists in the county, * * * or if any bank or banks existing therein fails or refuses to qualify under the terms of this act to receive such deposits, then and in such case, * * * such moneys as have not been accepted by any bank or banks within said county, * * * shall be deposited under the terms of this act in the bank or banks most convenient to such county, * * * willing to accept such deposits under the terms of this act, and qualified as above provided.”

While this statute is not specific on the precise point submitted by your question, it seems to me that the legislature intended to confine the deposit of public moneys to banks within the state of Montana.

The county commissioners of any county in the state of Montana would find it difficult to obtain information concerning the financial standing of banks outside of the state, sufficient to justify them in accepting such banks as depositories for county funds.

The spirit of our statute contemplates that the board of county commissioners shall exercise discretion in designating banks as depositories. Not having any means of acquiring information concerning the affairs of banks outside of the state of Montana, it is my opinion that the legislature did not intend that public moneys should be deposited in banks outside the state of Montana.

An additional reason why the legislature did not intend that public moneys should be deposited in banks outside of the state of Montana is the difficulty necessarily to be encountered in collecting such deposits in the event of default in their payment when the deposit is in a bank not within the jurisdiction of the state of Montana. It should be noted that the securities, when furnished by surety company bonds, are limited to those companies authorized to do business in the state of Montana. This limitation was obviously for the purpose of facilitating the means of enforcing the obligation in the event of a default by the bank in the payment of the money.

It is my opinion, therefore, that your question must be answered in the negative.

Very truly yours,
L. A. FOOT,
Attorney General.