

County Auditor—County Poor—Duties—County Commissioners.

The board of county commissioners is charged with providing means for the care of the indigent sick and poor, but the county auditor is made superintendent of the poor and charged with the duty of caring for the same, subject to the rules and regulations of the board of county commissioners.

Aurelia Lewis McAllister,
County Auditor,
Missoula, Montana.

May 24, 1927.

Dear Madam:

You have requested my opinion on the following question:

“Under the provisions of section 4833, R. C. M. 1921, has the board of county commissioners the authority to assume full control of the care of the county poor and general supervision of the county poorhouse, or is the county auditor authorized and made the superintendent of the poor, under rules and regulations prescribed by the board of county commissioners, and charged with the custody and keeping of the county records in connection therewith? In other words, can the board of county commissioners assume full control and perform all the duties of the superintendent of the poor, or are they limited to simply providing rules and regulations under which this work shall be carried on by the county auditor?”

Paragraph 5 of section 4465 R. C. M. 1921 provides as follows:

“To provide for the care and maintenance of the indigent sick, or the otherwise dependent poor of the county; erect and maintain hospitals therefor, or otherwise provide for the same; and to levy the necessary tax therefor, per capita, not exceeding two dollars, and a tax on property not exceeding one-fifth of one per cent, or either of such levies when both are not required, and to expend not to exceed five per cent of any such levy for the collection of said tax, or of any part thereof.”

Section 4833 R. C. M. 1921 provides:

“The county auditor hereby created is also made county superintendent of the poor, whose duty it shall be, under such rules and regulations as may be prescribed by the county com-

missioners, to care for and examine all claims that may be made upon the county for charity; also to have under the direction of the county commissioners, general supervision of the county poorhouse or farm."

It is a settled rule of statutory construction that where two sections apparently deal with the same subject and are not necessarily repugnant to each other they must be given that construction which will give effect to both statutes, if possible. Applying this rule to the above statutory provisions, it is apparent that while the board of county commissioners has charge of arranging for the care of the poor under section 4465, supra, yet under the provisions of section 4833, supra, the county auditor is made the superintendent of this work and as such superintendent is necessarily charged with the custody and keeping of the records in connection with the same.

It is therefore my opinion that under the provision of paragraph 5 of section 4465, supra, "the board of county commissioners is charged with providing for the care and maintenance of the indigent sick, or the otherwise dependent poor of the county." That the board of county commissioners is charged with providing means for the care of the sick, etc., but in counties having a county auditor the provisions of section 4833, supra, limit the board of county commissioners to simply providing rules and regulations under which the money so provided under section 4465 shall be spent and that the county auditor is made superintendent of the poor and charged with the duty of caring for the same subject to the rules and regulations of the board of county commissioners so provided and also with general supervision of the county poorhouse or farm.

Very truly yours,

L. A. FOOT,
Attorney General.