

Poll Tax—County Commissioners—Employment—Special Collectors.

The duty of collecting poll tax is imposed upon the county treasurer and the county commissioners have no authority to employ or pay a commission for this work to a corporation, person or individual for collecting the same from employees of a corporation.

George W. Padbury, Jr., Esq.,
County Attorney,
Helena, Montana.

July 8, 1929.

My dear Mr. Padbury:

You have requested my opinion whether the county commissioners have authority to allow a commission to a corporation, person or individual for collecting and receipting for poll tax due from employees of the corporation.

Under the provisions of Section 5 of Article XVI of our Constitution, and Section 2165 1 R.C.M. supplement the duty of collecting poll tax has been imposed upon the county treasurer and it has been held by former Attorney General Rankin that "where the law imposes upon a county officer a duty, the board has no authority to employ others to perform that duty." (See Opinions of Attorney General, Volume 9, page 275, and authorities therein cited.) I am in full accord with this opinion.

Furthermore, many courts have held that contracts providing for the collection of public funds on a commission basis are contrary to public policy and void.

State ex rel. Coleman vs. Frye, 95 Pac. 392;
Platte Co. vs. Gerrard, 12 Neb. 244.

It is therefore my opinion that the county commissioners have no authority to allow a corporation, person or individual a commission for collecting poll tax from the employees of the corporation and that such an agreement would be contrary to public policy and void.

Very truly yours,

L. A. FOOT,
Attorney General.