

Poor Fund—Counties—Contracts.

County poor funds may not be used for the purpose of procuring labor upon the roads or other county projects. The said funds may not be paid out as compensation for labor thereon. Destitute persons who receive aid from the poor fund may voluntarily offer to work for the county upon these projects and the county could accept the offer within the limitations mentioned in the opinion.

Mr. Frank P. Gault,
County Attorney,
Great Falls, Montana.

August 5, 1931.

My dear Mr. Gault:

You inquire if the county may enter into agreements with destitute persons who receive aid from the poor fund by which they would agree to work upon the roads of the county or perform other service for the county, their only compensation to be the aid given from the poor fund.

The laws do not authorize the county to employ persons to perform work on the roads or other projects of the county and agree to pay them for their services out of the poor fund. For such services the persons must be paid out of other funds provided for that purpose. The poor funds are of a charitable nature and their collection and dispensation is for the benefit of the indigent sick, poor and infirm and for the payment of mothers' and old age pensions. The right to require labor in either of these cases as a condition to receiving aid from the poor fund is not found in the law. The fund must, of course, be administered in accordance with the policy of the law which seems to be a charitable rather than a compensatory policy.

Inasmuch as the law does not require services to be performed as a condition to the disposition of the fund a method of administration incorporating such a condition would no doubt be contrary to the law and lead to the charge that the fund was being bargained for the benefit of the county, and being used as a means to procure labor which otherwise would have to be paid for from other funds.

Certainly no binding contract could be made by the county and destitute persons by which they would perform labor on the roads or other projects of the county and be paid therefor out of the county poor fund for the reason that if the county put itself in the relation of employer toward these persons it can only pay them out of funds provided by law to be used for the work upon which they are employed. The contract would not be enforceable by the employees because the county has no legal right to agree to pay them out of the poor funds. The consideration for receiving aid from the poor fund cannot be employment. The disbursement of these funds is not the subject of contract with the destitute, their only claim being founded upon the charitable attitude of the state toward its unfortunate destitute as it is found written in the law.

The destitute condition of the claimants is the only condition recognized by the law as being required to exist to authorize the county to give them aid. If the county would hire a person because of his destitute condition to perform work on the roads or other projects his compensation therefor must be paid out of other applicable funds. Aid cannot be given from the poor fund as compensation for labor on these projects.

I have no doubt a destitute person who has received aid from the county poor fund, or is about to receive it, could voluntarily offer to work for the county upon these projects and the county could accept his offer, but, as above stated, this would not constitute a contract between him and the county and it would be revocable at will. If it was revoked by the recipient of the aid the county could hardly refuse to give him further aid if the same destitute circumstances existed, as to do so would imply that the reason for granting him aid in the first place was not the fact that he was destitute but because of his promised labor, which, as above stated, cannot be the consideration for granting aid from the poor fund.

The county is, of course, authorized to give aid from the poor fund to the destitute, but the giving thereof must not be in pursuance of contract with the recipient for his labor. If he would voluntarily donate his labor to the county out of a reciprocal attitude on his part and this donation is not the cause for granting the aid, in my opinion the county may accept the donation. No preference on account of the offer, however, must be given those offering to so donate over those not so offering, as this would lend color to a charge that the administration of the fund was such as to make it a compensatory rather than a charitable fund, which is contrary to the spirit of the law.

Neither should the claims of the aged, sick or infirm to receive aid from the poor fund be disparaged by the offers of able-bodied persons to donate their services to the county while receiving aid therefrom, nor should the fact that any person might voluntarily donate services to the county during the time he is receiving aid tend in any manner to extend the time during which he receives aid, as it is his duty to do everything within his power to relieve himself of his destitute condition, and the county of his claim for aid at the earliest possible moment that he is able to do so.

Very truly yours,

L. A. FOOT,

Attorney General.