

Drought Relief—Feed—Counties.

Counties do not have the authority to purchase feed to be sold by the county to farmers and stockmen who are receiving aid from the federal government where the purpose of such arrangement is merely to permit the buying of the feed in large quantities at a lower cost than if the farmers and stockmen bought the feed in separate lots.

Mr. J. H. Forster,
County Attorney,
Malta, Montana.

August 11, 1931.

My dear Mr. Forster:

You state that many of the drought-stricken farmers and stockmen in Phillips county are applying for federal aid for the purpose of obtaining feed for their cattle and it has been proposed that the county purchase feed in large quantities to be sold to these farmers and stockmen when they receive their money from the federal government, the reason for such proposed arrangement being that the county can buy in large quantities and thus procure the feed for distribution at a lower cost than if the farmers and stockmen themselves bought the feed in separate lots. You inquire if the county has such authority under the law.

The powers of the county commissioners are derived from statute and they are either expressly mentioned in the statute or are necessarily implied from those expressly granted. There is no direct authority granted by statute which authorizes the county commissioners to engage in the undertaking mentioned.

Sections 4680 to 4711 R. C. M. 1921 authorize the counties to provide relief for their inhabitants who by reason of drought or other unfavorable climatic conditions have been rendered financially unable to procure seed grain, feed, provisions and other necessary supplies, and said sections provide the method for carrying into effect these provisions for relief. However, these sections only authorize the county to furnish relief to those inhabitants who are unable to procure the feed, etc.

themselves because of their financial condition, and even then the relief can be furnished only when the persons receiving it from the county become indebted to the county therefor.

In the arrangement proposed in your letter the county does not undertake to grant the relief itself to these unfortunate inhabitants as that is coming from the federal government. The only purpose to be effected through the purchase of grain by the county and re-sale to these persons is to enable them to purchase the feed at a lower cost than if each person purchased in the open market his own separate requirements. These persons who are to benefit by the proposed arrangement would not be the subject of relief under the sections above mentioned for the reason that by obtaining aid from the federal government they are able to procure the feed elsewhere than from the county. It is only those persons who are unable to procure the feed except from the county who may receive relief under said sections. It is therefore apparent that the proposed arrangement is not sanctioned by the sections referred to nor is it by any other law of the state.

However laudable the proposed arrangement might be the authority of the county to engage in it must appear in the law, and when such authority is lacking as it is in this case the authority does not exist, notwithstanding there are present conditions which would make it desirable or beneficial to engage in the undertaking, as such conditions must first be the subject of consideration by the legislative branch of the state government for its determination as to whether or not the county should be given power by that body to engage in the undertaking, and only after the power has been granted by that body can it be said to exist.

It is therefore my opinion that the counties under the present law do not have the legal authority to purchase the feed for the purposes and to effect the result mentioned by you in your inquiry.

Very truly yours,

L. A. FOOT,

Attorney General.