

Mothers' Pension—Poor Fund—County Budget—Election Expenses—Chapter 95, Laws 1931.

Where appropriation was not made in the budget for mothers' pensions to the extent of one-half of the poor fund, orders of court granting mothers' pensions entail mandatory expenditures required by law so long as the total warrants issued for such purposes do not exceed 50% of the poor fund. Where warrants have been issued for mothers' pensions equaling 50% of the poor fund further orders of court granting mothers' pensions do not constitute mandatory expenditures required by law within the meaning of the budget act.

The expense of holding the election under chapter 95, laws of 1931, is a mandatory expenditure required by law within the meaning of the budget act.

Mr. Denzil R. Young,
County Attorney,
Baker, Montana.

March 18, 1931.

My dear Mr. Young:

You have requested an opinion on two questions, as follows:

"1. Where the budget appropriation for mothers' pensions is exhausted owing to the allowance of a large number of such pensions by the judge of the district court is it necessary for the county commissioners to declare an emergency in order to make the payments required under the order of the court?

"2. No fund having been provided by the county budget for the holding of the election called for by chapter 95 (H. B. 450), laws of 1931, being the special election on proposed bond issue, is it necessary for the county commissioners to declare an emergency in order to meet the expenses of such election?"

You state that you have given the commissioners an opinion to the effect that both of the expenditures mentioned above are "mandatory expenditures required by law" within the meaning of section 6 of chapter 148, laws of 1929.

With reference to your first question, I agree with you that the payment of the mothers' pensions directed by the order of the court is a mandatory expenditure required by law within the meaning of the budget act provided that the warrants issued against the poor fund during the fiscal year have not exceeded in the aggregate amount 50% of such fund. Under the law, only 50% of the poor fund can be used for the payment of mothers' pensions.

Section 10483, R. C. M. 1921;

State ex rel. Board of Co. Comrs. vs. Dis. Ct., 62 Mont. 275, 204 Pac. 600.

You do not state whether appropriation was made in the budget for mothers' pensions to the extent of one-half of the poor fund. If an appropriation was made in the budget for these pensions to an amount equal to one-half of the poor fund and warrants have been issued which exhaust that appropriation, then no further warrants could be drawn against the poor fund on account of mothers' pensions allowed by the court as the full amount has been expended from the poor fund which the law allows for that purpose and any orders of the court remaining would not constitute mandatory expenditures required by law within the meaning of the budget act and no provision could be made for the payment of such pensions during this fiscal year.

If, however, the budget appropriation did not amount to one-half of the poor fund then the warrants required to be drawn for mothers' pensions against that fund by the orders of the court would constitute mandatory expenditures required by law to the extent of the difference between the appropriation made in the budget for these pensions and one-half of the poor fund, and to that extent provision could be made for the issuance of warrants in accordance with section 6 of chapter 148, laws of 1929, relating to such mandatory expenditures.

With reference to your second question, I agree with you that the expense of holding the election is a mandatory expenditure required by law within the meaning of the budget act and warrants may be issued for such expenses by complying with the terms of the budget act relating to such expenditures.

Very truly yours,

L. A. FOOT,

Attorney General.