

**Leases—County Commissioners—County Property—Tax Deed Property.**

Prior to the enactment of substitute senate bill for numbers 23 and 26 amending section 4465, R. C. M. 1921 the county commissioners did not have power to lease property acquired by tax proceedings. Under said section as amended by said bill the county commissioners have the right to make leases of such property in conformity with the provisions of subdivision 28. Property leased must first be exposed to sale. If no sale is then made it may be leased.

Mr. Homer A. Hoover,  
County Attorney,  
Circle, Montana.

March 18, 1931.

My dear Mr. Hoover:

You have written me with reference to leasing of tax lands.

This office held in the past that no power existed in the board of county commissioners to lease these lands. However, the last legislature enacted substitute senate bill for numbers 23 and 26 which is an amendment of section 4465 relating to the powers of the boards of county commissioners.

Subdivision 28 reads as follows:

“To lease and demise county property, however acquired, which is not necessary to the conduct of the county’s business or the preservation of county property and for which immediate sale cannot be had. Such leases shall be in such manner and for such purposes as, in the judgment of the Board, shall seem best suited to advance the public benefit and welfare, and all revenue derived therefrom, except as otherwise provided, shall be paid

into the county treasury. On the tenth day of January and the tenth day of July in each year the county treasurers shall distribute such revenues to the several county, trust and agency funds on the basis of the tax levy for the preceding year. All such property must be leased subject to sale by the Board, and no lease shall be for a period to exceed three (3) years."

Under this provision the county is authorized to lease lands acquired by tax deeds.

I am enclosing you herewith a copy of an opinion rendered to county attorney Foss of Glendive, Montana concerning the sale and leasing of property acquired by tax proceedings.

Inasmuch as subdivision 28 of the senate bill only authorizes the leasing of the property "for which immediate sale cannot be had," it is my opinion that any property which the county desires to lease must first be exposed to sale under the provisions of subdivision 10 of the senate bill. If the property cannot be sold at such sale then it might be leased under the provisions of subdivision 28.

Very truly yours,

L. A. FOOT,

Attorney General.