

Opinion No. 146.

Public Welfare—County Commissioners—Counties.

HELD: 1. County commissioners have no authority in law to set up special funds within the poor fund for the purpose of depositing money received as grants in aid from the state, and pay out such money regardless of outstanding warrants drawn on the poor fund.

2. Grants in aid under the provisions of Chapter 82, Laws of 1937, may be paid direct to recipients by the state department, from certified lists furnished by the county.

August 25, 1937.

Mr. I. M. Brandjord
Administrator State Department
of Public Welfare
Helena, Montana

Dear Sir:

Your letter has been received, wherein you submitted the following inquiry, to-wit:

"Can a board of county commissioners establish a special welfare fund, place in that fund the money received from the State Department of Public Welfare for general relief, and use the money as cash payments to persons on relief although the county has registered warrants outstanding against the county poor fund?"

You are advised that the law does not permit you to establish, under such conditions, a special welfare fund, and furthermore, under the provisions of Chapter 82 of the 1937 Session Laws such a special welfare fund is not necessary to meet such a condition as your question states.

Chapter 82 of the 1937 Session Laws, Part 1, Subdivision (b) of Section 11, provides that:

"It is hereby made the duty of the board of county commissioners in each county to levy the six mills required by law for the poor fund and to budget and expend so much of the funds in the county poor fund for all purposes of this act as will enable the county welfare department to meet its proportionate share of such assistance granted in the county, and the county budget shall make provision therefor and an account shall be established for such purpose. If the six mill levy shall prove inadequate to meet the county's proportionate share of public assistance **under any part of this act** and if the county board of commissioners is unable to declare an emergency for the purpose of providing additional funds, and if an audit by the state examiner's office proves this condition to be true and the county board has expended its poor fund only for the purposes levied, **then such proportion of its public assistance as the county is unable to meet shall be paid from the state public welfare fund.**" (Under-scoring ours.)

Under the above quoted section, if an application is made to the department of public welfare by a board of county commissioners for assistance from the state, for the reason that the county is unable to meet its proportionate share, then before you can grant the county any assistance whatsoever, it is necessary for the board of county commissioners to make application, and have an audit made by the state examiner's office, and if said audit concludes that such condition is true, and that the county is unable to meet its proportion of its public assistance, then the department of public welfare shall meet the county's share of said assistance, which assistance shall be paid from the state public welfare funds direct to the recipients, upon the proper certification by the county of these recipients.

In this manner of payment, the state's funds could not become a part of the poor fund of the county, and it follows that it would not be necessary to establish a special welfare fund to meet the situation and condition as indicated by you in your letter.