

August 31, 1937.

Mr. George J. Allen
County Attorney
Livingston, Montana

My Dear Mr. Allen:

You have submitted certain data from the city attorney of the City of Livingston, together with your separate request, for our opinion thereupon. It appears from the facts submitted that there is now being constructed in the City of Livingston, by the City of Livingston and the W. P. A., a building to be known as the Civic Center Building; that the building when completed will be turned over to the City of Livingston; that the same when completed will be used by the general public, including the Park County High School and all the people of the County of Park; that the work will be done by the unemployed poor of the County of Park.

You have not advised this office as to the amount of the poor fund that is to be expended, nor do you advise us as to whether or not the money to be expended from the poor fund of the county is to be used entirely for the paying of the poor who work thereupon, or whether a portion of the same is to be used in the purchase of materials and equipment.

Prior to the enactment of Chapter 82 of the 1937 Session Laws, a great deal of latitude was given to the county commissioners as to the manner and form in which they were authorized to expend money from the poor fund in caring for the poor.

Paragraph 5 of Chapter 100 of the 1931 Session Laws provided that:

"The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law to provide for the care and maintenance of the indigent sick, or the otherwise dependent poor of the county."

Under the authority of the language just quoted, no restriction was imposed upon the board of county commissioners in providing for the poor, and the method and manner in which provision was made for them was vested in the discretion of the board. Former attorney generals have ruled in previous opinions, and prior to the enactment of Chapter 82, as aforesaid, that the

Opinion No. 148.

**Public Welfare—Counties—County
Welfare Board — Payment
Direct to Recipient.**

HELD: 1. Public assistance, under Chapter 82, Laws 1937, must be paid directly to the recipient, by warrant or check representing cash on demand.

2. Poor funds for payments under provisions of Chapter 82, must be expended exclusively in payments to certified eligibles and may not be used to purchase material or equipment to be used in a project upon which recipients are employed.

board could extend its aid in a similar way to the way as is proposed in your proposed project. The result of new legislation in 1937, and particularly as provided for in Chapter 82 of the 1937 Session Laws, has circumscribed this discretionary power.

Section 9, Part II of Chapter 82, provides that:

"It is hereby made mandatory upon the board of county commissioners that taxes levied and collected for the county poor shall be expended only for the purposes levied."

If a portion of the poor fund of the county is proposed to be used for the purchase of materials or equipment for the civic center building, then your board is absolutely prohibited from so purchasing or furnishing equipment for said building.

Section 5 of Part II of Chapter 82 provides that:

"All relief disbursements by the county or state department to relief recipients shall be by warrant or check representing cash on demand, provided, however, that if there is evidence to prove that the recipient is in the habit of dissipating the relief allowance instead of using it for the purpose intended, cash relief will be discontinued to such person and the relief allowance will be given in the form of disbursing orders."

And as provided for in Section XII of Part II of said act, said relief recipient shall be paid by warrant or check, and payable from either the county or state funds.

You have not advised us whether the county has, or is proposing to pay money directly to the City of Livingston, or some other agency, which is constructing this building, or whether the warrants or checks are paid direct to the recipients. Under the law it is absolutely necessary that the payments be made directly to the recipients and the welfare department must have control over the disbursement of the same.

Section XII of Part II of Chapter 82 provides that:

"The amount of relief assistance granted any person or family shall, subject to the regulations and standards of the state department, be

determined by the county department with due regard to resources and necessary expenditures of individual or family and the conditions existing in each case and shall be sufficient to provide each person or family with a reasonable subsistence compatible with decency and health."

You have not advised us whether the persons who are working upon this project, and to whom this money is to be paid, have been certified as eligible by the welfare department, nor the amount to which they are entitled to receive. Money of the poor fund must be paid directly to the recipient by check or warrant representing cash, and must be paid and used for the benefit of only those persons who have been certified by the county welfare department as being eligible for relief, and must be used only in the amount to which the person is certified as being entitled to. The county welfare department establishes the eligibility of the person and the amount which he is entitled to receive.

The poor fund cannot be used for the purchase of equipment nor of material, nor paid to any person not certified as eligible, nor in an amount exceeding that amount as approved by the welfare board for each person so certified. In other words, before the poor fund or any portion thereof can be expended, three conditions must be complied with.

1. The county must pay directly to the recipient, and not through the city or any other agency.
2. The money that is expended from said fund must be used exclusively in payment to the certified eligibles, and not be used in the purchase of material or equipment, or for any other person who has not been certified as eligible.
3. The amount paid cannot exceed the amount certified as needed by the eligible recipient.

If you have met, or can comply with the above conditions, then to that extent, and in accordance with those conditions, you may expend funds from the poor fund in the construction of this project. And if you have not, or cannot meet these conditions in toto, then you cannot expend money from said fund in the construction of the project.

The Twenty-fifth Legislative Assembly in Chapter 115 of the 1937 Session Laws has provided the means and authorizations to meet many of the problems which occasioned the rendition of the former attorneys' general opinions relating to relief obligations, but whether your situation can be properly met under the authority of Chapter 115, in the expenditure of poor funds as you now propose, will largely depend upon all of the facts. However, we feel that we have given you a sufficiently comprehensive view of our opinion of what the law is, so that you may be able to apply the facts of your case to the same and be able to determine whether or not you are within the terms and provisions of the law.