

Opinion No. 171.**State Treasurer—Depository—Public Welfare Reimbursements.**

HELD: The State Treasurer is the legal depository for all state funds.

2. All reimbursements made by counties, under all parts of Chapter 82, Laws, 1937, must be deposited with the State Treasurer.

September 27, 1937.

Mr. Ray Shannon
State Treasurer
The Capitol

Dear Sir:

You have requested our opinion upon the following facts:

The Department of Public Welfare of the State of Montana is receiving, from the various counties of the state, reimbursement moneys amounting to 16 $\frac{2}{3}$ % of the old age assistance paid in the counties. According to your letter, this money has been deposited in the bank account of the Department of Public Welfare in the City of Helena, and not deposited in the office of the State Treasurer. The question involved is whether or not this money shall be deposited by the Department of Public Welfare with your office.

Section V, Part III, Chapter 82, 1937 Session Laws, provides:

"Each county department shall reimburse the state department in the amount of 16 $\frac{2}{3}$ per centum of the approved old age assistance grants to persons in the county each month. Such reimbursements shall be credited to the old age assistance account of the state department."

We find similar provisions regarding other classes of recipients elsewhere in the said act.

Section V, supra, has reference to the rate of reimbursements by the counties to the state and to the manner in which the state department shall credit said reimbursements, and has no reference or application, by inference or otherwise, to the depositing of said funds.

Among other provisions, paragraph (b) of Section X of Part I of said act provides:

"One-half of the administrative costs of the county department shall be reimbursed to the state treasurer by the county, in accordance with the terms of this act."

The above provision cannot be construed to hold that the counties must reimburse the state department by paying said reimbursements direct to the state treasurer, but said reimbursements are to be made to the state treasurer in the manner and form as provided by the terms of the act, and payment to the state department by the counties of said reimbursements for administrative costs is to be forwarded to the state department, and by it deposited, as all other funds are deposited, with the state treasurer. We fail to see how the provision last quoted, relative to administrative costs, can, by inference or exclusion, place the depository of old age assistance reimbursements in a separate or different class.

Section I of Part VIII of the act provides:

"Receipt of Funds. The treasurer of the State of Montana is hereby designated as the appropriate fiscal officer of the state to receive federal funds. All money appropriated by the legislature for public welfare purposes, all money received from the United States Government for public welfare purposes, and all money received from any other source for the purposes set forth in the public welfare act shall be paid into the state treasury and constitute a special fund to be designated as the public welfare fund."

Section III of Part VIII of the act provides:

"Method of Disbursement. The state department of public welfare

shall disburse all public assistance grants and costs of administration as provided for in each part of this act. The state public welfare department shall establish (or open) a bank account or accounts, properly safeguarded under state law and rules of the state department. Such account or accounts shall be subject to orders drawn by the state department for the payment of assistance grants and costs of administration of the state and county departments.

From the general appropriation for the public welfare act, the state department shall be provided with an imprest fund of five hundred thousand two hundred and fifty dollars (\$500,250.00), quarterly, for which it will be responsible and liable. The imprest fund will be divided among such specific accounts as may be necessary or desirable for the state department to establish.

As payments of grants and administrative costs are made from this imprest fund, it shall be replenished from the public welfare fund by the state treasurer, upon presentation of claims prepared by the state welfare department and approved by the state board of examiners and covered by warrants issued by the state auditor, and the state treasurer is hereby directed to disburse the monies appropriated by the act upon such warrants."

The act in itself specifically provides that all money received from any other source, for the purpose set forth in the Public Welfare Act, shall be paid into the state treasury, and constitute a special fund to be designated as the Public Welfare Fund. The language of Section 1, supra, is plain and certain, and the words themselves lend their own interpretation. The conclusion is that the act designates the state treasury as the depository of the old age reimbursement funds and of all other funds, subject to the exception provided for in Section III of Part VIII of said act, and it specifically designates the state treasurer as the fiscal officer of the state to receive federal funds, apparently distinguishing between the receipt of federal funds and state and county funds, but it does, nevertheless, specifically designate the treasurer as depository of funds received from any source, which must necessarily include old age reimbursements.

Section III of Part VIII specifically provides that as payments of grants and administrative costs are made from the imprest fund, it shall be replenished from the Public Welfare Fund by the state treasurer, upon the presentation of claims prepared by the state department and approved by the state board of examiners and covered by warrants issued by the state auditor.

Paragraph 1 of Section 174 provides that it is the duty of the state treasurer to receive and keep all moneys belonging to the state, and not required to be received and kept by some other person.

Chapter 82, supra, neither directly nor by inference designates or authorizes the Public Welfare Department to act as a depository, or to establish a depository, except as to said imprest fund, and under the general duties of the state treasurer it becomes his duty to act as the depository of said reimbursements for old age assistance.

Section 192, R. C. M. 1935, provides that the state treasurer is designated the treasurer of each and every state board and department existing or hereafter to be established, and said section provides that all departments of the state government located at the capital (which includes the Public Welfare Department) shall deposit with the treasurer all moneys received, and the treasurer shall credit said departments in the manner and form as provided for by law, and we can find no modification of this section, or Section 174, by amendment or repeal, expressed or implied.

Therefore, it is our opinion, that the Public Welfare Department must deposit reimbursement moneys of old age assistance, paid by the counties, into the state treasurer's office, and the Public Welfare Department cannot deposit said funds in any other depository other than said treasury.