

Opinion No. 86.**County Commissioners — Unemployment Office Expense—Fund.**

HELD: Expenses of county unemployment office may be paid from either the general or the poor fund.

June 20, 1939.

Unemployment Compensation
Commission of Montana
Mr. Barclay Craighead, Chairman
Helena, Montana

Gentlemen:

You have submitted to this office for my opinion the inquiry as to the proper county fund to charge county employment office expense.

No express statutory provision exists authorizing the county commissioners to employ a county re-employment agent, or to incur expenses incidental thereto. By reason of the county's obligation to care for the poor (Section 5, Article X of the Constitution), and because the services of a re-employment agent will affect the welfare of the poor an implied power to expend county funds is vested in the board of county commissioners. (State ex rel Barr v. District Court, 108 Mont. 433.)

While it has been determined that the county may use money from the poor fund in matters indirectly benefiting the poor (15 Attorney General's Opinions No. 292), yet no express statutory provision exists specifying the particular fund such expenses are to be charged to. In the absence of statutory provision, in a determination of the scope of the county commissioners' powers, it becomes necessary to establish the character of the services to be performed by the county re-employment agent, as well as the financial status of the particular fund sought to be impressed with such obligations.

Beginning July 1, 1939, the duty will devolve upon the county re-employment agent to register and claim benefits from the unemployment compensation trust fund (Section 3, paragraph (a), Chapter 137, Laws of 1939). Such duties only indirectly relate to the poor. Cost of maintaining every service indirectly affecting the poor is not necessarily chargeable to the county poor fund. For instance, the county clerk and recorder renders many indirect services in behalf of the poor, and is compensated out of the general fund.

At the present time the poor funds of some of the counties are unable to carry their direct relief and other poor obligations. Some of the counties deplete their poor funds before the end of the fiscal year, and consequently are compelled to rely upon assistance from the state. Under such conditions the county poor fund should be burdened with only such expenditures as are mandatory. The board of county commissioners, in the exercise of its sound discretion, may charge expenditures for the maintenance of a county re-employment service to either the county general or poor fund. Such discretion should be exercised taking into consideration the financial status of each fund. If it appears that the poor fund will be insufficient to defray direct mandatory obligations imposed upon it, to the end of the fiscal year, and that it will be necessary to depend upon the assistance of the state to meet such deficiency then the cost of maintaining a county re-employment service should be budgeted and paid for from the general fund, providing that fund, with its maximum levy, is able to carry the ordinary obligations imposed upon it by law.