

No. 139

PUBLIC WELFARE—APPROPRIATIONS—GRANTS-IN-AID, how apportioned

Held: The appropriation made for grants to counties must be apportioned by the State Department of Public Welfare to all counties of the State in inverse proportion to the taxable valuation per capita with county population as shown by the 1940 census, exclusive of Indians. The apportionment should be made at the beginning of the fiscal year and counties notified of the share apportioned in time for consideration of their budgets.

June 9, 1941.

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

My dear Mr. Brandjord:

I have your request for an opinion on the following question:

“Must the \$250,000.00 appropriation carried by Sub-section (e) of Section 2, and Sub-section (g) of Section 4 of House Bill No. 366 of the 1941 Session Laws be apportioned to all the counties of the State?”

The sections referred to are part of the appropriation bill for the Department of Public Welfare for the biennium commencing July 1, 1941:

“For grants to counties to supplement county poor funds to be apportioned by the State Department of Public Welfare in inverse proportion to the average taxable valuation per capita with county population as shown by the 1940 census exclusive of Indians, the sum of two hundred fifty thousand dollars . . . \$250,000.00.”

In order to answer this question, it is necessary to determine the intention of the Legislature; and such intention must be gathered from the language employed (*McNair v. School Dist.*, 288 Pac. 188, 87 Mont. 423) or inferred from the plain meaning of the words, before resorting to other rules of construction (*Great Northern Utilities Co. v. Public Service Commission*, 293 Pac. 294, 88 Mont. 180). Courts construe statutes and ascertain the intention of the Legislature by considering every part of the act, its subject-matter, object, and intent (*Daniels v. Andes Ins. Co.*, 2 Mont. 78).

With the foregoing elementary rules of construction in mind, we may proceed to an interpretation of the legislative intent from the words used in the sections in question.

The appropriation herein made is for the purpose of providing what has commonly come to be known as grants-in-aid to counties. These grants are for the purpose of aiding the counties in carrying their proportion of the financial burden placed upon the taxpayers of the State by the Public Welfare Act, adopted in 1937, and amendments thereafter made.

It is appropriate to consider the history of public welfare legislation in this state and particularly the appropriations to sustain it. The original act (Chapter 82, Laws of 1937) was adopted to take advantage of the Federal Social Security legislation by which the federal government extends its financial aid and assistance to those states who cooperate in its program and share the financial burdens involved. Under this modern legislation, all subdivisions of the state must assume their proportionate share of the expense. The federal government participates financially in assistance to needy dependent children, needy blind persons, and needy aged, and for these forms of assistance the county and state contribute proportionate shares. However, the act specifically places the primary financial responsibility for assistance to all those citizens not qualifying for the forms of assistance above mentioned upon the several counties of the state. This form of assistance is known as general relief. However, the Legislature realized that, even though the state and federal government by their contributions would relieve the counties to some extent, the burden placed upon many counties for general relief would be too heavy. The Legislature, therefore, provided a separate appropriation to be used for the purpose of assisting counties which were unable at any time to meet the cost of this form of assistance from local revenue.

The first appropriation for public welfare was made in the act itself. (See Part VIII, Chapter 82). The appropriation for general relief was provided by Sub-section (6) of Section IV, Part VIII, in the following words:

"For the purposes of general relief and contingencies, the sum of six hundred thousand dollars (\$600,000.00) for each annual period as in this section above set forth."

While the Legislature did not use the words "grants-in-aid," the State Board, in administering the act and carrying out the provisions of Part II thereof, and particularly Section IX of said part, providing for "Grants-in-aid from state funds to counties," made disbursements for this purpose from this specific appropriation. This administrative act was sanctioned by the next Legislature, as is evidenced by the fact practically the same words were used in the appropriation for this purpose. (See House Bills 419 and 427, 1939 Session Laws.)

It is a well-known fact that, during the first four years of the operation of the Welfare Act, under the method employed by the State Board in disbursing these grants-in-aid under the above mentioned provisions of the appropriation bills, it was impossible to make an equitable distribution. Consequently some counties received larger grants than others, while still others received none. It is only fair to assume, however, the Board made an honest attempt to carry out the purpose and intent as expressed in the words of the appropriation, and disbursed the funds as equitably as possible under the circumstances. The fact remains, however, the distribution—as thus made—while within the provisions of the act and the wording of the appropriation bill, was based upon no sound equitable principle.

It is reasonable to assume that, with these facts in mind, it was apparent to the Legislature of 1941 a more equitable method of distribution was necessary so that the purpose and intent of the Public Welfare Act, that all counties should share in this fund equitably in proportion to their needs, could be accomplished. The result was the adoption of the sections of the appropriation bill in question here.

The language is clear to the extent the distribution should be "in inverse proportion to the average taxable valuation per capita with county population . . ." That is, the county with the highest per capita valuation would receive the least proportionate share, while the county with the lowest per capita would receive the greatest share. The idea evidently was that the county with a large per capita valuation would receive a

larger income from its tax levy and, therefore, be better able to carry its burden.

It is likewise clear it was the intention the apportionment should be made by the State Department of Public Welfare at the beginning of the fiscal year. The evident purpose of this is so that the county might know the amount apportioned to it, so that it could take such amount into consideration in making its budget.

The question, however, arises as to whether the language used imports the distribution be made, on the basis indicated, to all counties or only to those most likely to be in need of the grant.

It is a fact, shown by the records, certain of the counties have consistently been in need of the aid during the past four years, while others have but occasionally needed state aid. Still others have been able to carry the burden. With this state of facts proved by the experience of the past four years, it would be difficult to determine—at this time—just which counties will require aid during the ensuing fiscal year. Again, it would not be equitable for the State to apportion or set aside the entire fund to any certain counties to the exclusion of others. The only fair and reasonable interpretation, considering the entire act and the history of its operation, is that the apportionment should be made to all the counties in inverse proportion to the average taxable valuation per capita with county population as shown by the 1940 census. The apportionment should be made by the State Department at the beginning of the next fiscal year, and the counties notified of their proportionate share before budgets are adopted.

Sincerely yours,

JOHN W. BONNER
Attorney General