

## No. 374

MILK CONTROL BOARD—BUDGET  
APPROPRIATIONS

**Held:** The State Milk Control Board may by proper resolution legally expend the sum of \$500 so budgeted and appropriated for the purposes expressed in the last paragraph of Section 18, Chapter 204, Laws of 1939, not exceeding, however, the limitations of that section.

March 19, 1942.

Mr. G. A. Norris  
Executive Secretary  
Montana Milk Control Board  
Capitol Building  
Helena, Montana

Dear Mr. Norris:

You have submitted the following:

"Section 18, Chapter 204, Session Laws of 1939, provides that not to exceed 10% of the annual total of license fees collected from dairymen in designated market areas of the board may be paid to local dairymen's associations, which are declared to be instrumentalities of the board.

"In making up the budget for the Montana Milk Control Board, an item of five hundred dollars (\$500.00) was set aside for this purpose, and was included in the nine thousand dollar (\$9,000.00) appropriation to the Montana Milk Control Board which reads, 'for salary and expenses.' Query: May the Montana Milk Control Board legally expend such sum of \$500.00 for such purpose?"

The Legislature created the State Milk Control Board by Chapter 204, Laws of 1939. Section 18 of Chapter 204, Laws of 1939, provides for the formation of local associations under regulations of the Board. The last paragraph of said section provides:

"Such associations are hereby declared to be instrumentalities of the board and as such may receive as compensation for their services and as a means to their efficiency a percentage of the license fees paid to the board from the market so organized not to exceed ten per cent (10%) of the annual total of such license fees."

The Legislature thereby made such local associations instrumentalities of the Milk Control Board.

Section 17 of Chapter 204, Laws of 1939, provides all fines and fees and all money received by the Milk Control Board shall be deposited with the state treasurer and he shall place such funds to the Milk Control Board fund and pay all warrants drawn by the state auditor, pursuant to the act, out of said funds, and further appropriates all such funds for the purposes of the act.

However, by Section 2 of Chapter 14, Laws of 1941, the Legislature directed all money collected or received by or paid over to the Milk Control Board by way or on account of fees, licenses, or for any other purpose, on and after July 1, 1941, shall be paid over to the state treasurer who shall deposit the same to the credit of the general fund of the state. Section 4 of the act further provides any and all balances remaining in any fund or funds established, created, kept or maintained in the state treasurer's office for any of the license or tax laws for any of the departments or bureaus or divisions thereof or for any of the officers specifically mentioned in Section 2 of the act, at the close of the fiscal year ending July 1, 1941, shall be, by such state treasurer, immediately after the close

of such fiscal year, transferred to and shall become a part of the state general fund.

The foregoing provisions of Chapter 14, Laws of 1941, are, of course, controlling.

The State Milk Control Board through its executive secretary, as you inform me, presented to the appropriation committee of the Twenty-eighth Session of the State Legislature a budget for the period beginning July 1, 1941, and ending June 30, 1943, for salaries, and the expenses of said board, in which was included an item of \$500 for part compensation for the services of the local association, as provided in the last paragraph of Section 18 of Chapter 204, Laws of 1939. The said legislature, taking said item into consideration, appropriated \$18,000 for the biennial period out of the general fund for salaries and expenses for the Milk Control Board. (House Bill No. 380, see pages 414 and 426, Session Laws of 1941.)

Under the foregoing facts and the applicable laws, it is my opinion the State Milk Control Board may by proper resolution legally expend the sum of \$500 so budgeted and appropriated for the purposes expressed in the last paragraph of Section 18, Chapter 204, Laws of 1939, not exceeding however, the limitations of that section.

Sincerely yours,

JOHN W. BONNER  
Attorney General