

Opinion No. 190.**Boards of County Commissioners—
Warrants—Predatory Animal Control
Program for Sheep—Sheep, Predatory
Animal Control Program.**

Held: The board of county commissioners is without authority to issue anticipatory warrants against the fund to be created by the revenue to be derived from collection of the license under the provisions of Chapter 206, Laws of 1943.

March 16, 1944.

Mr. H. O. Vralsted
County Attorney
Judith Basin County
Stanford, Montana

Dear Mr. Vralsted:

You have written asking if the board of county commissioners may issue anticipatory warrants under Chapter 206, Laws of 1943.

Under the provisions of Chapter 206, Laws of 1943, the county commissioners are authorized to conduct a predatory animal control program for the protection of sheep. The program is to be financed by a per capita license fee on sheep. The fee when collected shall be placed to the credit of a predatory animal control fund and expended on the order of the board of county commissioners of the county for predatory animal control.

Section 2 of said chapter quoted here makes it quite clear as to the method of procedure and the method of paying the expenses connected with the program:

"To defray the expense of such protection the board of county commissioners of any county shall have the power to require all owners or persons in possession of any sheep, one year old or over, in the county on the first Monday of June in each year to secure a license and pay a license fee of not exceeding five cents (5c) per head of sheep so owned or possessed by him in the county. Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county by the county assessor or the county clerk

and recorder and shall be payable to and collected by the county treasurer as and when county personal property taxes are by law payable and collected, and when so levied shall be a lien upon the property of the licensee enforceable under the laws provided for the collection of taxes on personal property, and when collected said fees shall be placed by the treasurer in the predatory animal control fund, and the moneys in said fund shall be expended on order of the board of county commissioners of the county for predatory animal control only."

Nowhere within the provisions of the act does it mention or allow the issuance of anticipatory warrants against the fund. The fact that the issuance of anticipatory warrants against the fund would be helpful and beneficial and to the best interest of all parties concerned, is not an admissible argument. The doctrine of expediency does not enter into construction of statutes. (*Franzke v. Fergus County*, 76 Mont. 150, 245 Pac. 962.) And further, the power to act without authority is applicable to the board of county commissioners and does not exist. (*Franzke v. Fergus County*, supra.) It is also a well known rule of law that where a statute directs a thing to be done in a particular manner, it implies it shall not be done otherwise—"expressio unius est exclusio alterius," *Raleigh v. Reid*, 20 Wall 269, 20 U. S. 570, 25 R. C. L. 981.

The provisions of Chapter 206 are plain and unambiguous and need no construction. (*Gt. Nor. Utilities Co. v. Pub. Svc. Comm.*, 88 Mont. 180, 293 Pac. 294.)

Therefore, in the light of what has been stated here, it is my opinion that the board of county commissioners is without authority to issue anticipatory warrants against the fund to be created by the revenue to be derived from collection of the license under the provisions of Chapter 206, Laws of 1943.

Sincerely yours,
R. V. BOTTOMLY
Attorney General