

Dear Mr. Peterson:

You have requested my opinion concerning the authority of the Gallatin Airport Board to disburse maintenance funds, as provided in Section 3, Chapter 154, Laws of 1941.

The following facts have been presented. Pursuant to Chapter 54, Laws of 1941, the City of Bozeman and the County of Gallatin, by resolutions authorizing organization thereof, created a joint venture known as the Gallatin Airport Board. As provided in the act, the city and county each made a levy and the funds raised from said levy were deposited in a joint fund. All disbursements from the fund are made by order of the joint board, the Gallatin Airport Board. Section 3 of the act provides:

"All disbursements from such fund shall be made by order of such joint board or body, if one be created as hereinabove authorized, otherwise under such rules and regulations as the joint control by the commissioners and council or councils may adopt."

The question presented is: may the airport board make disbursements from the joint fund without the direct approval of the board of county commissioners, in view of Section 4465.11, Revised Codes of Montana, 1935, which provides the board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: At the regular monthly meetings of the board, to examine, settle and allow all accounts legally chargeable against the county except salaries of officers, and to order warrants to be drawn on the county treasurer therefor and provide for issuing of the same.

At first impression, it would appear there would be no necessity for the county commissioners to settle and allow the claims, since it was the plain intent of the legislature the joint board or body created under Chapter 54, Laws of 1941, should have control over disbursements from the joint fund; otherwise, it should have control under such rules and regulations as the joint control by the commissioners and council or councils may adopt.

Section 4465.11, Revised Codes of Montana, 1935, is found in Chapter 345, which enumerates the general powers

Opinion No. 161.

**Board of County Commissioners—
County Commissioners—Airport,
Funds—Funds, Airport—Disburse-
ments, Airport.**

Held: A joint airport board, acting pursuant to Chapter 54, Laws of 1941, may make disbursements from the joint fund without again having the approval of the board of county commissioners.

May 23, 1946.

Mr. Ernest A. Peterson
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of the board of county commissioners. Chapter 54, Laws of 1941, is a special act relating to the establishment, construction, equipment, maintenance, management and operation of airports and landing fields by counties, cities and towns, and authorizing joint action of such bodies. The statutes do not deal with the same subject matter; applying the fundamental rule of construction, a statute should be construed to give effect to the intention of the legislature by considering every part of the act, its subject-matter, object and intent (*State v. Board of County Commissioners of Cascade County*, 89 Mont. 37, 296 Pac. 1), Chapter 54, Laws of 1941, must be given effect. By direct authorization, all disbursements from the joint airport fund shall be made by order of the joint board or body created under the act. The provision would have little or no effect at all, if claims were to be first presented to the board of county commissioners for approval. This position is supported since the word "accounts," as used in Section 4465.11, *supra*, refers to any right to or claim for money which is due and payable from the county treasury. The problem at hand concerns disbursements from the joint fund and not from the county treasury.

Confusion exists, however, under the express terms of the act:

"All expenses of such construction, improvements, equipment, maintenance and operation shall be a charge against such county . . . or when a county and a city . . . act jointly . . . such charge shall be against the joint subdivisions of the State . . ."

In view of such provision, there can be no doubt that a claim against the airport board would be a claim against the county, at least to the extent of the proportion to be paid by the county into the joint fund. The question is, then, must such claim or claims be presented to the board of county commissioners in light of the well settled rule in Montana that the presentation of a claim to the board of county commissioners is a condition precedent to the commencement of an action against the county for its recovery? (*School District No. 12 v. Pondera County*, 89 Mont. 342, 351, 297 Pac. 498, and cases cited therein.)

Chapter 420, Revised Codes of Montana, 1935, provided for the establish-

ment of airports by counties, cities or towns. Section 5668.37 of that chapter provided:

"All expenses of such construction, improvement, equipment, maintenance and operation shall be a charge against such county, city or town."

Chapter 54, Laws of 1941, amended the sections found in Chapter 420, provided for joint action by counties, cities or towns, and provided for the creation of a joint fund, each political subdivision depositing its proportionate share in accordance with the predetermination of the board of county commissioners and council or councils, affected. The legislature, in enacting Chapter 54, Laws of 1941, carried over the provision making expenses a charge against the political subdivisions, but when such political subdivisions acted jointly, pursuant to the act, the charges should be apportioned according to benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution of the two governing bodies, the resolution being in effect an approval of the amount by the board of county commissioners.

I think such provision can only refer to the proportionate share paid by each political subdivision into the joint fund.

It is therefore my opinion a joint airport board acting pursuant to Chapter 54, Laws of 1941, may make disbursements from the joint fund without again having the approval of the board of county commissioners.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General