

**Opinion No. 59**

**Appropriations—Civil Defense—  
Counties—County Commissioners—  
Powers of—Budget Act—Chapter 218,  
Laws of 1951.**

- Held:** 1. There is no language contained in Chapter 218, Laws of 1951, which authorize the appropriation of money by boards of county commissioners for Civil Defense activities.
2. Activities relating to Civil Defense activities on a local level may, in the discretion of the local governmental bodies, and subject to the limitations as contained in the Budget Act,

(Sections 16-1901 through 16-1911, Revised Codes of Montana, 1947) be provided for by increased budgets for existing authorized offices, services, departments, and institutions.

January 21, 1952.

Lt. Col. H. A. McKinney  
State Director of Civil Defense  
State Armory  
Helena, Montana

Dear Col. McKinney:

The question has been submitted to me as to whether the Montana Civil Defense Act of 1951, Chapter 218, Laws of 1951, authorizes the County Commissioners of the various counties to appropriate monies for Civil Defense activities.

The plain and factual intent of the act was to create a civil defense agency and to authorize and make it the duty of the political subdivisions to cooperate in the establishment of an adequate and operative program. Although the act provides the state agency and its director with certain powers with respect to the organization and direction of local organizations, it does not in any respect indicate that the County Commissioners are authorized to appropriate money for that purpose.

Section 15 of the Act provides in explicit language an appropriation "for the administration of this Act." The language is clear and unambiguous and is only open to one interpretation, that is, that the legislature intended that act be administered by the sum allocated by the legislature.

The Boards of County Commissioners have but limited powers and must in every instance justify their actions by reference to the provisions of law defining and limiting these powers. It is a well established principle that the Boards of County Commissioners may only exercise such powers as are specifically conferred upon them or which are necessarily implied from such powers as are expressed, and where there is a reasonable doubt as to the existence of a particular power in the Board of County Commissioners, it must be resolved against the board and the power denied. (See *Sullivan v. Big Horn County*, 66 Mont. 45, 47, 212 Pac.

1105; *Marvin Lewis v. Petroleum County*, 92 Mont. 563, 17 Pac. (2d) 60, 86 A. L. R. 575.

It is, therefore, my opinion that there is no language contained in Chapter 218, Laws of 1951, which can be construed as authorizing the appropriation of money by Boards of County Commissioners for Civil Defense activities. In this respect, it should be added that activities relating to Civil Defense on a local level may well be provided for by increased budgets in the county offices, departments, and institutions, wherein authority presently exists, subject, of course, to the ten per centum (10%) limitation of increase over the fiscal year next preceding. (Section 16-1907, Revised Codes of Montana, 1947). Such increased estimates, for example, could be submitted by the office of sheriff, or county public health officer, or any of the other offices, departments, services or institutions which have been given authority by the legislature to submit estimated expenditures. The matter of increasing the budgets on existing authorized activities is of course entirely within the discretion of the local governmental bodies.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General