

OPINION
47-244

September 22, 1947 (OPINION)

WELFARE

RE: Counties - Fixing Salaries

This office in receipt of your letter of September 12, 1947, advising that you have a letter and request from the Barnes County Welfare Board for clarification of the relationship between the county welfare board and the board of county commissioners with reference to fixing salaries of the employees of the county welfare board.

You quote from the letter of the Barnes County letter as follows:

"It is important that the county welfare boards know where their authority and jurisdiction begins. It is important that the County Board of Commissioners know where their jurisdiction and authority ends."

You refer to the case of fuller v. Finger, 69 N.D., 646, as decisive of the question as to who has the authority to fix the salaries of such employees, the board of county commissioners or the county welfare board. In this case it was held that upon the facts as presented therein the county welfare board had such authority.

We have carefully examined this case and the facts upon which the opinion therein is predicated.

The county commissioners of Stark County and the State Public Welfare Board entered into an agreement with reference to the administration of welfare funds. As a preamble to such agreement, we find the following:

"Par. 3. And whereas, it is necessary to coordinate the administration of relief and welfare activities in the county and centralize the authority for the administration of relief under the County Welfare Board in conformity with the provisions of chap. 97, laws of 1935,

"Par. 4. And whereas, the County Welfare Board has no authority to incur any obligation on behalf of the county or to make commitments in the name of the county without authorization from the Board of County Commissioners,

"Par. 5. And whereas, the Public Welfare Board of North Dakota has adopted as a fixed policy the allocation of state funds on the basis of relief or welfare need in each county after taking into consideration the financial ability of the county to provide for relief or welfare needs."

We quote further a portion of the agreement as follows:

"Therefore: It is hereby mutually agreed by and between the

Board of County Commissioners of Stark County, North Dakota,
and the Public Welfare Board of North Dakota as follows:

1. The Board of County Commissioners of Stark County, North Dakota, agrees to authorize the County Welfare Board to make commitments in the name of the county and against the county funds to the extent necessary to take care of necessitous relief or welfare activities within the county or to the extent of the financial ability of the county to finance such activities in cooperation with the Public Welfare Board'."

As we read the opinion in this case, it was based wholly upon the written agreement between the board of county commissioners of Stark County and the public welfare board of North Dakota, and you will observe that it was recognized in the preamble that "the county welfare board has no authority to incur any obligation on behalf of the county or to make commitments in the name of the county without authorization from the board of county commissioners."

It will thus be seen that in the Finger case, the county commissioners had, by written contract, delegated to and authorized the county welfare board to administer the welfare fund, and according to the terms of the contract, had divested itself of all power in connection therewith except to see to it that bills were properly made, audited, and allowed by the county welfare board.

With reference to the situation in Barnes County, if there is such a contract between the county welfare board and the county commissioners, then, of course, the Finger case is controlling. If there is no such agreement, then we still adhere to the opinion given in regard to this matter on July 13, 1945, which opinion is found on page 312 of our report for the biennium beginning July 1, 1944, and ending June 30, 1946.

We believe, however, that there should be a full understanding between the board of county commissioners and the county welfare board with reference to salaries of employees and other incidental matters, and we see no reason why the relationship should not be harmonious.

The furnishing of assistance to those who are in need is recognized as a function of state and municipal governments, and, therefore, it is necessary to appropriate public funds for such purposes. It would follow, therefore, that the board of county commissioners, which is the governing body and fiscal agent of the county, is the proper authority to have charge of the manner of expending and disbursing such public funds. The county welfare boards are auxiliary organizations set up to cooperate with the boards of county commissioners and to have charge of the details in connection with distribution and disbursement of public funds to those who are in need. A proper coordination of the functions and duties of the board of county commissioners and the county welfare board as provided by law should be worked out by both in a practical manner so as to carry out fairly and equitably the general purpose of the statutes providing for public assistance and relief to those who through misfortune or otherwise are in need.

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