

Office of the Attorney General
State of North Dakota

Opinion No. 81-121

Date Issued: November 4, 1981

Requested by: James Purdy
Dickey County State's Attorney

--QUESTION PRESENTED--

Whether a Board of County Commissioners has the authority to approve or disapprove specific budget items in the proposed budget of a County Social Service Office, including salaries of personnel.

--ATTORNEY GENERAL'S OPINION--

It is the Attorney General's opinion that the Board of County Commissioners does have authority to approve or disapprove specific items of the budget of the County Social Service Office, including salaries of the individual personnel if such salaries are separately stated in the budget, but if there is a lump sum appropriation for all the salaries, the social service board has the authority to set salaries within that appropriation.

--ANALYSIS--

The county is required, under several sections of the North Dakota Century Code, to appropriate funds for public welfare purposes. Sections 50-06.2-05, 50-09-20, and 50-24.1-03, N.D.C.C. Section 50-03-02, N.D.C.C., requires each county to maintain a fund known as the county poor relief fund.

All funds appropriated by a county must be appropriated in accordance with Chapter 11-23, N.D.C.C., and no expenditure may be made in excess of the appropriation. Section 11-23-06, N.D.C.C. All expenditures of money by a county shall be in accordance with the annual appropriations of the board of county commissioners. Section 11-23-09, N.D.C.C.

Section 11-10-11, N.D.C.C., provides that the board of county commissioners sets the number and salaries of deputies, clerks and assistants for the county auditor, county treasurer, sheriff, register of deeds, county judge and clerk of district court. This section also includes provisions for appointment of assistant state's attorneys. While no mention is made of county social service workers, the board of county commissioners, by virtue of the fact that it controls the appropriation, can control the number and salaries of personnel.

If a lump sum is appropriated for all salaries, the county social service board has the authority to set salaries under Section 50-01-09, N.D.C.C., which gives this board general supervisory power over the social service activities. The board of county commissioners has no authority over the salary of an individual employee, unless each individual employee's budgeted salary is separately stated in the budget approved by the Board of County Commissioners. All salaries must be within the range corresponding to the State classification of that employee.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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