

County Commissioners—Authority to Extend the Time for Receiving Bids for Bonds.

A Board of County Commissioners may properly extend the time for receiving bids for the sale of road bonds when they have been properly advertised for bids and no bids are received.

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My dear Mr. Bunker:

You have submitted for an opinion of this office the question whether a Board of County Commissioners may by resolution extend the time for receiving bids for road bonds which had been properly advertised for sale upon a date certain, but for which no bid was received at the time set for opening the bids.

The provisions of the statute relating to the manner of selling bonds by County Commissioners are found in Chapter 32 of the Laws of 1915.

Section 2907 of the Revised Codes of 1907, as amended by Section 2 of this Act, reads in part as follows:

"When the board issues any bonds authorized by this article it is its duty to sell the same and give notice by advertisement in some newspaper published in the county, or if there be no newspaper published in the county then in any newspaper published in an adjoining county for a period of not less than thirty (30) days prior to the time said bonds are to be sold; such advertisement must be for sealed proposals, which must state the amount of such bonds offered for sale and the person offering the highest price therefor in conformity with the requirements of the notice of sale is entitled to receive the amount of such bonds which he offers to buy; but no bonds must be sold for any price less than the par value thereof."

It is to be observed that no provision is made for the steps to be taken in case no bids are received. The object of publication and of a public sale of the bonds is to remove from such sales the opportunity for irregularity or dishonesty presented at private sales of public securities. That purpose having been accomplished by the publication of notice and the opening of the sale of the bonds to offers from the public generally, when no offers come from the public as a result of such notice it is then within the discretion of the Board to proceed by any reasonable and legal method to obtain a purchaser.

It has been held that by virtue of publication of notice and the taking of all the steps required up to the time of the opening of bids, if bids are not received and a sale is not made, nevertheless jurisdiction has been acquired by the Board to proceed with a sale of the bonds within its discretion.

Weston v. Hancock County, 98 Miss. 800, 54 So. 307.

In Smalley v. Yates, 41 Kan. 550, 554, the court used the following language:

"After the ordinance providing for the reception of sealed bids had been disposed of by the failure of any bids being offered, then the mayor and city council had the right to sell the bonds by resolution, if they deemed such a mode advisable."

The statute above quoted requires that the bonds shall be sold for not less than their par value, and while it also provides that the person offering the highest price therefor, in conformity with the requirements of the notice of sale, is entitled to receive the amount of the bonds he offers to buy, the failure to receive any bids renders the latter requirement inapplicable, and the Board of County Commissioners may proceed to sell the same providing that such sale shall not be for less than the par value with accrued interest.

It is therefore my opinion that when a Board of County Commissioners have properly advertised for bids for the sale of road bonds, and no bids are received on the date for opening the same, the Board may properly extend the time for receiving bids for the sale of such bonds.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.