

Highways—County Commissioners—Inspection of Highways—Statutes Construed, Sec. 12 of Chap. III and Sections 3 and 4 of Chap. IV of the New Highway Act in the Session Laws of 1917, Chap. 172.

Under Sec. 4 of Chap. IV of the above act not more than one member of the board of county commissioners and the county surveyor shall act as viewers while under Sections 3 and 4, Chap. IV the board may direct an inspection to be made by the County Surveyor, or by any member or members of the board.

July 31, 1917.

Mr. D. L. Blackstone,
County Attorney,
Chinook, Montana.

Dear Sir:

I am in receipt of your letter of June 27th submitting the following, with reference to the new highway law, Chapter 172, Session Laws of 1917:

Under Section 12 of Chapter III of said Act can the board of county commissioners direct that all of the members of the board act in making inspections therein provided for?

Under Section 3 and 4 of Chapter IV of said Act can all the members of the board act in making an investigation as to the

feasibility, desirability and cost of establishing a new highway, or does Section 4 restrict them to the appointment of one member of the board to act with the county surveyor in making such investigations?

Section 12 of Chapter III of said Act authorizes and empowers the board of county commissioners to direct the county surveyor or members of the board of county commissioners to inspect the condition of any proposed highway, or highway or work done on any highway or bridge during the progress of the work.

Section 3 of Chapter IV of said Act provides that when a petition is filed as authorized by Section 2 of said Chapter, (that is a petition to establish, change or discontinue a highway), the board of county commissioners shall, at their next regular meeting, or at some date within thirty days after the next regular meeting, proceed to cause an investigation as to the feasibility, desirability and cost of granting the prayer of the petition.

Section 4 of Chapter IV provides that (when a petition is filed to establish, change or discontinue a highway), not more than one member of the board of county commissioners and the county surveyor shall act as viewers.

Section 12 of Chapter III and Sections 3 and 4 of Chapter IV must be considered together, and so considering them, I am of the opinion that when the board desires an inspection made of any highway already established, or of any work on any highway or bridge, the board may direct such inspection to be made by the county surveyor, or by any member or members of the board, that is by one member, or by two members, or by all three members of the board, but if the inspection is to be made under the provisions of Section 4 of Chapter IV, for the purpose of determining the feasibility, desirability and cost of establishing, changing or discontinuing a highway, then not more than one member of the board can act with the County Surveyor in making such inspection.

Respectfully,

S. C. FORD,

Attorney General.