

**County Commissioners—Bridges—Construction of.**

A Board of County Commissioners has the power to construct a bridge, costing under ten thousand dollars even though there is no money in the bridge fund provided bids are called for in the regular manner and the construction of the same is given to the lowest bidder.

October 4th, 1917.

Mr. C. E. Carlson,  
County Attorney,  
Bozeman, Montana.

Dear Sir:

I have your letter of recent date submitting the following for my opinion:

“Assuming that A Board of County Commissioners has expended all of the money in the Bridge Fund and assuming that

they desire to construct a bridge in a certain locality, and an individual in that locality is willing to construct a bridge, and willing to accept a warrant for the same, the individual agreeing not to register the warrant and thereby waive his interest for a period of one year, would the County Commissioners have authority to enter into this agreement?"

The construction of bridges by boards of County Commissioners is governed by Chap. 5 of Chap. 141, Session Laws 1915. I find no prohibition in this chapter against the issuance and registration of warrants drawn against the Bridge Fund when there is not sufficient money in the fund to pay the same, and I am of the opinion that when there is no money in the Bridge Fund the Board of County Commissioners may procure the construction of a bridge, provided the cost thereof does not exceed \$10,000 and will not make the indebtedness of the County in excess of the constitutional limit, and in payment thereof may issue warrants against the Bridge Fund which may be registered in the same manner as other warrants.

I am doubtful, however, of the power of a Board of County Commissioners to enter into any agreement with any certain individual for the construction of a bridge, the cost of construction of which will be in excess of \$200, such individual agreeing to accept a warrant therefor which is not to be registered within one year of its date of issuance. I am of the opinion that if the cost of construction exceeds \$200, the board must, except in an emergency as provided in Section 4 of said chapter, proceed in accordance with the provisions of said Chap. 5, advertise for bids and award the contract for the construction of such bridge to the lowest bidder, payment for such construction being made by warrants drawn against the Bridge Fund and registered when there is no money, or insufficient money in the Bridge Fund to pay the same.

Very truly yours,  
S. C. FORD,  
Attorney General