

**Highways—Federal Aid Project—Bond Election For—
Roads and Bridges—County Commissioners, Powers Of.**

Where there are not sufficient funds to complete a highway project by reason of federal aid being withdrawn on account of changes to be made, the County Commissioners are vested with discretion as to the expenditure of the funds raised for this purpose.

The county commissioners may amend a resolution, where an entirely new project is not created or the original purpose changed.

July 14, 1919.

Mr. John N. Edy,
Assistant Chief Engineer,
State Highway Commission,
Helena, Montana.

Dear Sir:

Replying to your letter of recent date, in regard to the action of the County Commissioners of Treasure County in submitting to a vote of the electors a proposition to bond the county in the sum of \$150,000 in order to construct necessary roads and bridges, the same to constitute a general highway system for the county. You have submitted, in connection with your letter, the resolution of the board which definitely covers the course of the road and the location of the bridges proposed to be built.

It appears from your letter, though no reference thereto is contained in the resolution, that the proposed road and bridges will cost an estimated amount of \$320,000, and, therefore, the proposed issue could not cover more than fifty per cent of the cost, and that by reason of contemplated changes in the road, it is improbable, owing to additional expense, that this change would be approved as a Federal Aid Project. This would leave a part of the work to be completed without Federal aid, thereby greatly reducing the amount available for use in conjunction with Federal funds for the remainder of the road undertaken.

Under these circumstances, you wish to know to what extent the county may go in spending the proceeds of the bond sale. Inasmuch as the taxpayer first approved the proposal and no limitation is imposed thereon, it must be assumed that he is willing that the money be spent upon the project, and if there is not sufficient to complete it as contemplated, then it shall be spent on such part of it as is most essential to a beginning. The Board of County Commissioners, therefore, has discretion in the matter of the expenditure of these funds. This discretion, however, must be limited to the accomplishment originally intended.

In answer to your second question regarding the amendment to the resolution passed by the board, a resolution may be amended the same as a pleading. It is not, however, authorized to make such an amendment as would change the original purpose or create an entirely different project. Applying this principle to the facts which you have submitted, I would say

that if the amendment to this resolution contemplated a change in the original plans by abandoning the bridges which were held out as an inducement to secure the approval of the plan for a road which continued on one side of the river, and which would be of no service to those on the other side without the construction of these bridges, then I have no hesitancy in saying that this would be such a change and could not be accomplished by amending the resolution unless done within time to give proper notice to the electors, and it would be the substituting of a new and different road from that originally intended. It would necessarily follow that such an amendment could not be voted upon at the election to be held September 2nd, and therefore, could not be made by amendment.

Respectfully,

S. C. FORD,

Attorney General.