

Highways—Federal and State Aid—Expenditures in Excess of \$10,000.00—County Commissioners, Powers Of.

Funds derived from an increased levy under Chapter 160, Laws of 1919, may be expended in conjunction with Federal and State aid.

Under Chapter 160, Laws of 1919, the county commissioners are not authorized to incur an indebtedness in excess of \$10,000.00 for a single purpose.

Oct. 24th, 1919.

State Highway Commission,
Helena, Montana.

Gentlemen:

I am in receipt of your letter stating that several counties have voted an increased levy for the construction of highways and bridges as provided in Chapter 160, Session Laws 1919, and requesting my opinion with reference to the following questions:

“1st. May the fund provided through increased levy be expended in conjunction with Federal or State funds?”

2nd. Can the Board of County Commissioners undertake a project costing in excess of \$10,000.00, payment to be made from the funds voted under Chapter No. 160 of the Sixteenth Session Laws?”

Section 1 of Chapter 160, Session Laws 1919, provides that such portion of the funds derived under said Act that are expended on state and main highways shall be expended under plans approved by the State Highway Commission. It is my understanding that all Federal and State funds are expended only on State and main highways, and under the supervision of the State Highway Commission. If my understanding is correct then I know of no reason why funds derived under said Chapter 160 may not be expended in conjunction with Federal or State funds, and your first question should be answered in the affirmative.

The prohibition against a county incurring an indebtedness or liability for any single purpose in excess of \$10,000.00 without the approval of a majority of the electors is a constitutional provision, not a statutory one, consequently the legislature has no power to grant authority to a county to incur an indebtedness or liability for any single purpose in excess of such amount without submitting the same to and obtaining the approval of a majority of the electors. Chapter 160, Session Laws 1919, merely authorizes the Board of County Commissioners to make an increased levy, that is, to increase the levy over and above the levy provided for by Section 1, Chapter 2, Chapter 172, Session Laws 1917, when the question of making such increased levy has been submitted to and approved by a majority of the electors, and when such question has been submitted to and approved by a majority of the electors it merely authorizes the Board of County Commissioners to raise funds by making such increased

levy, and does not authorize such board to incur an indebtedness or liability for any single purpose in excess of \$10,000.00. Your second question is therefore answered in the negative.

Respectfully,

S. C. FORD,

Attorney General.