

County Commissioners — Expenditures — Federal Aid Project—Registration of Warrants—Highway Fund—Taxation.

County Commissioners may not expend \$10,000 over and above the amount of a bond issue for constructing a Federal Aid Project without submitting the question to a vote of the people.

Warrants may not be registered against the Highway fund.

The County Commissioners have no authority to transfer money from the county to the Highway fund.

A. F. Lamey, Esq.,
County Attorney,
Havre, Montana.

My dear Mr. Lamey:

You have submitted to this office for my opinion the following questions:

1. Can the County Commissioners expend \$10,000.00 over and above the amount of the bond issue for constructing the federal aid project in Hill county?

2. Can warrants be registered as against the highway fund?
3. Can the County Commissioners transfer money out of the regular county funds into the highway fund?
4. If warrants can be registered against this fund, can a tax be levied to replace the money to take up the outstanding warrants?

It appears from your letter that the bond issue referred to in your first question was an issue of \$150,000 worth of bonds for the construction of main highways in conjunction with federal aid and was approved by electors of the county at an election held for that purpose. It further appears that all but \$6,000.00 of the proceeds of this bond sale have been expended and that the county has entered into a contract, the estimated cost of which amounts to \$107,000 for highway construction, and that this contract can not be completed, according to the most conservative estimate, without an expenditure of more than \$10,000.00 above all amounts to the credit of the highway fund.

The election authorizing an indebtedness to be incurred in the amount of \$150,000 is not authority for an expenditure in excess of that amount. Presumably the proposed expenditure of \$10,000 to complete the present project is for a single purpose, and it is, therefore, my opinion that the same may not be made, except upon a vote of authorization by the electors of the county.

Answering your second question: This is a special fund created for the sole purpose of taking over the proceeds of the bond sale and distributing the same. This is not a regular or permanent county fund, and warrants drawn against it can be issued only to the extent of the money in the fund, or credits due to the fund from the Highway Commission. As it is merely a special fund which would cease to exist when exhausted, it would follow that there is no authority of law for transferring money out of the regular county funds to this special fund and your third question must therefore be answered in the negative. As no warrants may be issued against the fund, except such as can be paid out of it or from credits due it, this disposes of your fourth question also.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.