

Counties — County Commissioners — Highways — Elections.

A county cannot expend more than \$10,000.00 for the construction of a highway, where the project constitutes a single undertaking or purpose, without submitting the matter for the approval of the electors of the county at an election, whether the excess is to be paid in another year or in the same year.

Mark H. Derr, Esq.,
County Attorney,
Polson, Montana.

My dear Mr. Derr:

You have submitted to me the following question and ask my opinion with reference thereto:

“Can Lake county issue a warrant for not exceeding \$10,000 for its share of the cost of construction of the public highway running into Polson, and also issue a warrant in excess of the \$10,000 for right of way, fencing or materials or work upon said road, the warrant for the sum in excess of \$10,000 to be paid out of the taxes for the year 1924?”

Under Section 51 of Article XIII of the Constitution of the State of Montana, no county shall incur any indebtedness or liability for any single purpose to an amount exceeding \$10,000 without the approval of a majority of the electors thereof, voting at an election provided by law. The same restriction is found in Section 4447, R. C. M. 1921.

Whether or not the proposition which you submit comes within the restrictions of the above constitutional and statutory provisions, depends upon the answer to the question: Is more than \$10,000 to be spent for a single purpose?

Obtaining a right of way, grading and surfacing it, fencing it and procuring materials to be used in its construction, all constitute one undertaking or piece of work, to-wit, building or constructing a

highway. The purpose for which this money is to be used, therefore, appears to be a single purpose, so far as I am able to ascertain from your inquiry. The fact that the part in excess of \$10,000 would be paid in another year is of no consequence.

State ex rel. Turner v. Patch, 64 Mont. 565.

It is, therefore, my opinion that the county may not expend more than \$10,000 for the construction of said highway without submitting the matter for the approval of the people of the county at an election.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.