

No. 63

**COUNTIES—CITIES AND TOWNS
SCHOOL DISTRICTS—PROJECTS**

- Held:** (1) A county or other political sub-division may not sponsor new projects under Chapter 143, Laws of 1941 (House Bill 337) prior to July 1, 1941.
- (2) Such political sub-divisions may levy taxes after March 15, 1941, to retire warrants issued under Chapter 85, Laws of 1937, as amended, to complete projects sponsored prior to said date, providing said taxes so levied do not exceed the maximum levy provided under said Chapter 85.
- (3) Such political sub-division may submit new projects to the Federal Agency prior to July 1, 1941, but may not become sponsors thereof until after said date.

March 27, 1941.

Board of County Commissioners
Silver Bow County
Butte, Montana

Gentlemen:

You have requested my opinion on the following questions:

"Question No. 1—Can a County, through its Board of County Commissioners, sponsor a project after March 15, 1941, but prior to July 1, 1941?

"Question No. 2—Can a county, through its Board of County Commissioners, sponsor a superceding or supplemental project after March 15, 1941, but prior to July 1, 1941? The Courthouse Old Records Project is referred to here. It is operating and under course of construction at the present time. But the Federal funds will be exhausted before the project is completed prior to July 1, 1941. In order to continue the work, a superceding project must be submitted. And will this be considered a new project?

"Question No. 3—This problem, in its major aspects, is very similar to No. 2. We are here concerned with the County Wide Sanitary Sewer Project. The present operating Sanitary Sewer Project is in itself a superceding one to others that have been finished before it. We wish to submit another and final Sanitary Sewer Project which will probably not be ready for submittal before the present operating project is ended. Now to our question: Assuming that approval of this project is back from Washington before July 1, 1941, can we go ahead with it under the new law which provides for a 5-mill levy for projects under construction? Or will this be considered a new project?"

House Bill 337 (now Chapter 143, Laws, 1941) was designed to accomplish two purposes, first, to permit projects sponsored under Chapter 85, Laws of 1937, as amended by Chapter 209, Laws of 1939, to be completed; and second, to permit new projects to be constructed. As to new projects it specifically provides they may be sponsored and constructed between July 1, 1941, and June 30, 1942.

The Act extends the authority granted under the provisions of Chapter 85, insofar as such authority is necessary to complete projects already sponsored under its provisions. It does not give any authority to sponsor or commence new projects under the provisions of Chapter 85. Chapter 85, as amended, specifically provides it "shall continue in effect until March 15, 1941, and thereafter shall be of no force or effect." Hence, but for the provisions of Section 1 of House Bill 337 no authority to sponsor project, or to furnish materials, etc., would exist after March 15, 1941. Under Section 1 of House Bill 337, the body sponsoring a project not completed on March 15, 1941, is authorized to furnish materials, etc., and issue emergency warrants in payment therefor, within the limits of the maximum levy provided under Chapter 85, in order to complete such project. But, clearly, no new project may be sponsored after March 15, 1941, and prior to July 1, 1941.

Your first question must, therefore, be answered in the negative.

Now to your second question. I have pointed out Section 1 of House Bill 337 authorized only the completion of projects already sponsored under Chapter 85 and not the sponsoring projects. The project here in question was sponsored prior to March 15, 1941, but not completed on that date. I am assuming the necessity of resubmitting this project is to obtain additional federal funds, and will in no way obligate the county to provide funds in excess of the amount contemplated by the original authority obtained under Chapter 85.

Under the provisions of Chapter 85, in order to obtain authority to sponsor a project certain procedure was outlined to be followed. Notice

setting forth the intention to issue warrants in payment of materials, etc., and describing the purposes for which the warrants were to be issued, was required to be published. The Act set a maximum levy. The amount of warrants issued, therefor, could not exceed the maximum levy. By the provisions of Chapter 85, authority to sponsor projects, as well as to issue warrants, expired March 15, 1941. (Riley vs. Kraus, 107 Mont. 116, 80 Pac. (2nd) 864.)

House Bill 337, in extending authority to furnish materials, equipment, etc., to complete projects already sponsored under Chapter 85, impliedly extended the authority to issue warrants in payment thereof to the extent of the maximum levy provided

Therefore, if what you term a supplemental or superseding project does not require the issuance of warrants in an amount in excess of the maximum levy provided by Chapter 85, Laws of 1937, nor change the purpose of said project as set forth in the notice published in sponsoring said project, it is my opinion this is not a new project and may be completed under authority of Section 1 of House Bill 337.

Your third question, from the facts submitted, presents a different situation. Under the facts it is proposed to submit "another and final Sanitary Sewer Project," to be commenced after the project now under construction and sponsored prior to March 15, 1941, is completed. The project contemplated is not a completion of the one now under construction. It is a new project.

It is clear the intention of the Legislature in enacting House Bill 337 was to extend the time for completion of projects already sponsored and to limit the time in which new projects might be sponsored to one year. It is likewise clear the Legislature intended no new projects could be begun until July 1, 1941.

It is, therefore, my opinion the project mentioned in your third question is a new project and may not be commenced until July 1, 1941.

Section 4 of House Bill 337 provides the procedure required to sponsor projects. It provides the body proposing to sponsor a project shall adopt a resolution describing the project, the material, equipment, rentals, supplies and supervision to be furnished, the approximate amount to be expended and the approximate tax levy which will be made to pay the warrants to be issued with interest. It then provides for the publication of such resolution. It further provides that if, before the expiration of thirty (30) days after the publication, a petition signed by not less than 10% of the qualified electors opposing such project be filed, then such project may not be sponsored; but, if no such petition be filed, then the project may be sponsored.

I see nothing in the Act, however, which would prohibit a submission to a Federal Agency for its approval of a proposed new project to be sponsored after July 1, 1941. But clearly, under the Act, no project may be commenced before July 1, 1941. Section 2 provides "any county . . . may during the fiscal year beginning July 1, 1941 . . . sponsor . . ."

The word "sponsor" is derived from the Latin word "sponsio," meaning an engagement or undertaking (Black's Law Dictionary). It is defined by Webster as follows: "To be or stand sponsor for; to accept responsibility for." Therefore, in the words of the definition, the Legislature has said a county, etc., may accept responsibility for a new project at any time beginning July 1, 1941, and ending June 30, 1942. The submission of proposed projects for approval may not be said to be "sponsoring" such projects. After the proposed project has been submitted and approved, then the county may proceed as in Section 4 of House Bill 337 provided. It may not, however, issue any warrants thereunder, or levy any tax, until after July 1, 1941.

Very truly yours,

JOHN W. BONNER
Attorney General