

Opinion No. 70.**County Commissioners—Contracts—
Hours of Labor.**

Held: County commissioners may not contract for the performance of any services within the language of Section 3076, Revised Codes of Montana, 1935, for a period in excess of eight hours in any one day. Money paid on such contract would be an illegal expenditure of public funds.

June 18, 1943.

Mr. John D. Stafford
County Attorney
Cascade County
Great Falls, Montana

Dear Mr. Stafford:

I have your opinion rendered to the county commissioners of your county and agree with your conclusions.

The question presented is whether the county commissioners may legally pay an employee of the county time and a half for time worked in excess of eight hours.

Section 4 of Article XVIII, Constitution of Montana, provides:

"4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided."

"5. The legislature by appropriate legislation shall provide for the enforcement of the provisions of this article."

In pursuance to the constitutional mandate, the legislature has provided for the enforcement of the article, and Section 3076, Revised Codes of Montana, 1935, applicable here, provides in part:

"A period of eight hours shall constitute a day's work in all works and undertakings carried on or aided by any municipal, county, or state government . . ."

Section 3080, Revised Codes of Montana, 1935, makes a violation of Section 3076 a misdemeanor and provides a penalty therefor.

A contract made in violation of a valid statute is void and unenforceable. (*McManus v. Fulton*, 85 Mont. 170, 278 Pac. 126.) County commissioners have no power or authority to make an illegal contract, and money paid from the county fund on a contract illegal and void would be an illegal act on the part of the commissioners.

It is therefore my opinion county commissioners may not contract for the performance of any service for the county within the language of Section 3076, Revised Codes of Montana, 1935, for a period in excess of eight hours in any one day. Any money paid on such a contract would be an illegal expenditure of public funds.

Sincerely yours,
R. V. BOTTOMLY
Attorney General