

stitutional mandate that no law be revised, altered or amended by reference to its title only, but the section or sections of the act altered or amended must be re-enacted and published at length. This is clearly what §§ 27 and 28 of 1975 PA 318 have attempted to do and it is therefore my opinion that they are unconstitutional.

Since 1975 PA 318 does make appropriations for other branches of state government, it is clear that this bill would have been enacted without §§ 27 and 28. I conclude, therefore, that the remaining provisions of the bill are severable from the constitutionally infirm §§ 27 and 28.

FRANK J. KELLEY,
Attorney General.

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HIGHWAYS AND ROADS: Authority of county to expend funds to assist a city to make payments on bonds issued for reconstruction of a bridge.

COUNTIES: Authority of county to expend funds to assist a city to make payments on bonds issued for reconstruction of a bridge.

BONDS: Authority of county to expend funds to assist a city to make payments on bonds issued for reconstruction of a bridge.

A county may not use county funds to assist a city to make payments on a bond issued to finance the reconstruction of a bridge within the city.

Opinion No. 4992

December 8, 1976.

Mr. Jon Sheridan Shepherd
Prosecuting Attorney
Mason County
Mason County Courthouse
Ludington, Michigan 49431

You have requested my opinion as to the authority of a county to expend funds to assist a city to make payments on bonds issued to finance the reconstruction of a bridge within the city.

Your letter of request raises two questions which may be stated as follows:

1. Does a county commission have the authority to appropriate county funds to pay a portion of the cost of reconstruction of a highway bridge located entirely within a city in the county?
2. If so, does this permit the county to assume a portion of a city's established bonded indebtedness?

In November 1975 the City of Ludington, County of Mason, requested that the County Board of Commissioners authorize the use of county funds to assist the city in retiring an outstanding bonded indebtedness of \$175,000. The outstanding bonds are among those issued by Ludington in 1967 to finance the reconstruction of Washington Avenue Bridge within the city

limits. Most of Washington Avenue, including the portion on which the bridge is located, is a major city street. See 1951 PA 51, § 6 *et seq*; MCLA 247.656 *et seq*.

The city is requesting that the county contribute approximately one-half of the amount still owing on the bridge bonds. The County Board of Commissioners is considering the city's request, but is concerned about the validity of such an arrangement.

Const 1963, art 7, § 1, states that each county "shall be a body corporate with powers and immunities provided by law." Counties have only such powers as are delegated to them by the legislature or are reserved to them by the constitution.¹ But Const 1963, art 7, § 34, requires that constitutional provisions and law relating to counties be liberally construed in favor of the counties. The powers granted to the counties must include those fairly implied and not prohibited by the constitution.

Const 1963, art 7, § 16, authorizes the legislature to provide for county construction, maintenance and control of highways and bridges located within the county limits, and to specify the duties and powers of the counties in regard to these facilities. This the legislature has done in 1951 PA 51, § 1 *et seq*; MCLA 247.651 *et seq*; MSA 9.1097(1) *et seq*, which established the state trunk line highway system and a classification system for county roads and city or village streets. Counties, cities and villages receive weight and gasoline tax revenues which are returned to them through the Motor Vehicle Highway Fund. 1951 PA 51, § 10; MCLA 247.660; MSA 9.1097(10).

1951 PA 51, *supra*, § 12(13), gives the county the authority to enter into agreements with adjacent counties and with cities and villages to perform work on highways, roads or streets and to share the costs of such construction as follows:

"County road commissions may enter into agreements with county road commissions of adjacent counties and with cities and villages to perform work on a highway, road or street, and with the state highway commission with respect to a state trunk line and connecting links thereof within the limits of the county or adjacent thereto, and the agreements may provide for the performance by the contracting parties of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection therewith, by purchase or condemnation, by any of the contracting parties in its own name and such agreements may provide for joint participation in the costs."

1951 PA 51, *supra*, § 13(f), corresponds with the above provision, and authorizes cities to enter into agreements with the county road commission for the performance of work on any road or street within the city and a sharing of the costs.

¹ *Mosier v Wayne County Board of Auditors*; 295 Mich 27; 294 NW 85 (1940). *Wright v Bartz*, 399 Mich 55; 62 NW2d 458 (1954). *Bond v Cowan*, 272 Mich 296; 261 NW 331 (1935). See MCLA 45.2 *et seq*, which establishes the powers and duties of counties.

Given the propriety of joint county and city financing of a project within the city limits, does Mason County have the authority to contribute, after the fact, either county road funds or general funds to pay off bonds which the city issued wholly on its own initiative to pay for a city project? The answer must be no.

While the county could have agreed with the city to directly undertake the reconstruction of the Washington Avenue Bridge, see 1951 PA 51, § 18c; MCLA 247.668c; MSA 9.1097(18c), and 1951 PA 51, § 18d; MCLA 247.668d; MSA 9.1097(18d), these statutes cannot be read to authorize an after-the-fact contribution by the county to the city in the form of assuming a portion of the bond debt.

Therefore, it is my opinion that while Mason County may have originally contracted to participate with the city in financing the Washington Avenue Bridge reconstruction with motor vehicle highway funds, there is no statutory authority for using county funds to assume a portion of an existing city debt. See Const 1963, art 9, § 18, which prohibits the state from lending its credit.

FRANK J. KELLEY,
Attorney General.

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ARRESTS: Parking violations.

MOTOR VEHICLES: Arrest warrant issued against registered owner of a motor vehicle for a parking violation

PROCESS: Delivery of a citation.

A peace officer may not arrest a person without a warrant for commission of a misdemeanor not committed in his or her presence. Illegal parking of a motor vehicle is a misdemeanor. Therefore a peace officer may not arrest a registered owner of a vehicle previously parked illegally unless the illegal parking occurred in his or her presence. The district court may issue an arrest warrant against the registered owner of an illegally parked vehicle.

A registered owner of an illegally parked motor vehicle is presumed guilty of having illegally parked it, but may introduce evidence to refute this presumed fact.

A summons requiring a court appearance for a parking violation may be delivered by certified mail.

Opinion No. 5143

December 9, 1976.

Honorable Stephen Stopczynski
House of Representatives
Capitol Building
Lansing, Michigan

You have requested my opinion on the following questions: