



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

June 7, 1978

ATTORNEY GENERAL OPINION NO. 78-178

Mr. Kenneth L. Weltz  
Ellis County Attorney  
Post Office Box 725  
Hays, Kansas 67601

Re: Counties--Bridges--Repair

Synopsis: The cost limitation referred to in (b) of K.S.A. 68-1103, as amended by 1978 House Bill No. 2931, applies to the county's share of the cost, rather than the total project cost.

\* \* \*

Dear Mr. Weltz:

You inquire concerning House Bill No. 2931, and the authority which it provides for the repair and reconstruction of bridges. You indicate that Ellis County, like many other counties in the state, has a number of bridges which are inadequate to meet the needs of present-day traffic. You advise that a total of 22 bridges, with a life expectancy of 0 to 5 years, are in need of replacement, with a total estimated replacement cost of approximately \$2.5 million.

You indicate that under proposed federal legislation, substantial additional moneys may be made available to replace these bridges, on a proposed basis of 80% federal and 20% county matching monies. Under procedures required for obtaining federal participation, a request for a construction project for each bridge replacement is made to the secondary road department of the Kansas Department of Transportation. In the request, the county certifies that it has or will have the required county matching funds. After

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the project is approved by the Federal Highway Administration, and the contract is awarded, the county remits its share of the cost to the Department of Transportation. As the construction progresses, the Department makes payments to the contractors and invoices the Federal Highway Administration for its share of the completed work. Under this procedure, federal funds do not pass through the county.

The question is raised regarding section 1 of H.B. 2931, amending K.S.A. 68-1103. Section 1 amends K.S.A. 68-1103 to provide in pertinent part thus:

"(a) Whenever the board of county commissioners of any county shall determine that it is necessary to build or repair any bridge or culvert, the county's share of the cost of which shall be less than the sum of one hundred sixty thousand dollars (\$160,000), the board shall appropriate an amount equal to its share and shall immediately make all contracts for labor, material and all other expense necessary . . . and let a contract for the construction and repair thereof, but the amount appropriated shall not exceed the county engineer's estimated cost to the county for said work."

Subsection (b) provides the means for financing such projects. It provides in pertinent part thus:

"In any such county or counties . . .  
[in which bridges are in need of replacement  
or repair under certain circumstances] . . .  
then such board of county commissioners may  
immediately thereafter repair and reconstruct  
such bridge or bridges; may adopt a resolution  
finding and determining a necessity for such  
repair or reconstruction and may at once  
proceed to repair or rebuild the same at a  
cost to be determined by the county engineer's  
estimate not exceeding one hundred sixty  
thousand dollars (\$160,000) per bridge . . . ."

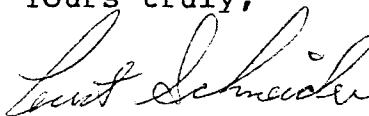
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Section 2 of the bill amends K.S.A. 1977 Supp. 68-1106, dealing with bridge projects the cost of which exceeds \$160,000.

You inquire whether the cost limitation in section (b), as quoted above, refers to the county's share of the cost, or whether it refers to the total cost of the project, including federal participation.

As amended, subsection (b) of K.S.A. 68-1103, as amended, provides the financing authority for projects authorized by subsection (a). Subsection (a) refers to projects "the county's share of the cost of which shall be less than the sum of . . . \$160,000," and provides that the "amount appropriated shall not exceed the county engineer's estimated cost to the county for said work." Subsection (b) refers to the "cost to be determined by the county engineer's estimate not exceeding one hundred sixty thousand dollars (\$160,000) per bridge . . . ." Obviously, it would have been helpful had the legislature specified in subsection (b) that the "cost" referred to therein was the cost to the county, rather than the cost of the project. Even without such specificity, however, it is clear, in my judgment, that the cost for which subsection (b) provides the financing authority, through the issuance of bonds or warrants, are specifically those costs referred to in subsection (a), i.e., the cost to the county rather than the total project cost. In short, I concur fully in your view that the cost limitation referred to in subsection (b) applies to the county share of the cost, rather than the total project cost.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj