

**OPINION
64-72**

November 18, 1964 (OPINION)

Mr. Eugene A. Kruger

State's Attorney

Cass County

RE: Counties - Fairgrounds - Financing

This is in reply to your letter of November 10, 1964, in regard to your county's financing of a fairgrounds site purchase and erection of suitable buildings on the site purchased.

You request our opinion as to whether it would be possible for the county board of commissioners to borrow funds against the future receipts from a two mill levy made pursuant to section 4-02-27.2, 1963 Pocket Supplement of the North Dakota Century Code, and if this is possible what would be the maximum amount that could be obtained. Also, you state that if we feel it would not be possible to borrow funds against the future receipts from this two mill levy, you would appreciate very much having our opinion as to what borrowing powers the county would have for use in construction of a fairgrounds.

Section 4-02-27.2, 1963 Pocket Supplement of the North Dakota Century Code, provides for a two-mill tax, in specified circumstances, to purchase or lease in the name of the county, not to exceed two hundred and forty acres of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a county fair. We note specifically that the tax as provided for therein is to be for a period of not to exceed ten years. No provision is made in such statute for using the proceeds of such levy to pay obligations for such lease or purchase, nor is the authority to incur such obligations given to the board of county commissioners by other statutory provisions in relation thereto.

On such basis, we believe the basic and practicable authority of the board of county commissioners to incur an obligation for purposes such as this is that contained in chapter 21-02 of the North Dakota Century Code, to wit: the power to issue certificates of indebtedness.

Such project, as the pertinent statutory provisions now stand, would not be a proper purpose to issue county bonds, also the surrounding circumstances as they are set forth in your letter would not justify registration of warrants.

HELGI JOHANNESON

Attorney General