

**OPINION
53-51**

June 17, 1953 (OPINION)

HIGHWAYS

RE: County Highway Engineer

This office acknowledges receipt of your request of June 13, 1953, for an opinion relative to the establishment of the office of county highway engineer. You state that in the June, 1952 election the voters of Logan County voted to establish a county highway engineer office in conformity with chapter 11-31 of the 1949 supplement to the North Dakota Revised Code of 1943.

The questions which you ask are as follows:

1. It is mandatory that the County Commissioners engage a county highway engineer.
2. What qualifications must the engineer have, and what is meant by the term 'qualified highway engineer'."

It is the opinion of this office that under said chapter 11-31 of the 1949 supplement to the North Dakota Revised Code of 1943 that when the voters of any county, by a majority vote, favor the creation of the office of county highway engineer, that it is mandatory upon the board of county commissioners to establish such a department. It is further the opinion of this office that it is mandatory upon the board of county commissioners to make an appointment to fill such office. It will be noted, however, that in section 11-3102 that such office may not be a full time office for such county, but that the county commissioners may in cooperation with other counties employ the same engineer if that is deemed advisable. This would mean that the county commissioners of Logan County would have the authority to engage the services either on a monthly or per diem basis of an engineer who may also be serving some other county.

Answering your second question as to the qualifications, it is the opinion of this office that the engineer so designated or appointed by the board of county commissioners must have experience as a surveyor and the laying out and supervising the building or construction of highways and drainage facilities for the county. It is our further opinion that when the words "qualified county engineer" are used, that it does not necessarily mean that such person must have a professional degree for such position, but that he must have sufficient knowledge and experience so he can make proper surveys and prepare specifications and to generally supervise the work.

ELMO T. CHRISTIANSON

Attorney General