

**68-704. Construction of improvements; letting of contracts; bids, surety; publication notice; bond of contractor; time for actions to restrain; county warrants.** The board of county commissioners may conduct the improvement of the road in conformity with the profile, plans and specifications as filed; may let contracts for the construction of any portions of the work required in making the improvements; or may let contracts for the labor only, or the labor and a portion of the material, and purchase any or all of the materials for the improvements of the highway and supply the same to the contractor or contractors.

If the work is let by contract, notice shall be published in the official county newspaper once each week for two consecutive weeks prior to the letting. No bids shall be accepted except in accordance with the profile, plans and specifications, and such contracts shall be let to the lowest responsible bidder, the board of county commissioners reserving the right to reject any or all bids. Each bidder must accompany the submitted bid with a bid surety in an amount equal to 5% of the amount of the bid payable to the chairperson of the board of county commissioners as a guarantee that, if the contract is awarded to the bidder, the bidder will enter into the contract with the board. If a bidder fails to enter into the contract when awarded to the bidder, the bid surety shall become the property of the county as its liquidated damages and shall be paid to the county treasurer for credit to the general fund of the county.

Each contractor shall give a good and sufficient performance bond in an amount fixed by the board of county commissioners, but not less than the contract price, and the bond required by K.S.A. 60-1111, and amendments thereto. The performance bond shall be filed and recorded in the office of the county clerk or some other county officer designated by the board of county commissioners and approved by the board of county commissioners and shall be conditioned on the contractor's faithful performance of the contract in every respect and secure the county against any and all loss or damage by reason of any default, failure or miscarriage in the performance of the contract. The board of county commissioners, at any time before entering into a contract, may withdraw any or all proposals and take charge of and conduct the improvement.

No action shall be brought to restrain the making of the improvements, or payment therefor, or levy of taxes or special assessments or issuance of bonds therefor on the ground of any illegality or irregularity in advertising, receiving bids or awarding the contract, or any proceedings prior to the award of the contract or decision by the board to make such improvements by day labor, unless such action is commenced within 30 days after the date the contract is awarded or the board makes the decision to make the improvements by day labor.

The board of county commissioners, as required, shall issue warrants of the county drawn on a special fund for the improvements, the purchase of materials, the payment of wages, and other expenses incurred in making the improvement or for payment to the contractor of not to exceed 95% of the work done and accepted under the provisions of this act. If a person or company with whom a contract is made under the provisions of this act fails to fulfill the contract, the board of county commissioners may cause the work to be completed and material furnished in full as provided in such contract and recover the full cost thereof from such person or company and the sureties on any bonds given, less any amount unpaid on the contract.

**History:** R.S. 1923, 68-704; L. 1970, ch. 64, § 80; L. 1975, ch. 427, § 130; L. 1981, ch. 173, § 73; L. 1987, ch. 97, § 3; L. 2004, ch. 40, § 1; July 1.