

Chapter

II

SD ASSOCIATION OF COUNTY HIGHWAY SUPERINTENDENTS

Certification Manual



County Bridges

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Purposes and limitations of the Manual

This manual was updated in the summer of 2024 at the direction of the South Dakota Association of County Highway Superintendents as a resource for county highway superintendents. This Manual is not all encompassing but is instead presented as a general outline of state statutes governing the operation of county highway departments. This manual does not include every statute and court opinion related to county highways and does not constitute legal advice. Further, laws, and the courts' interpretation of such laws, often change. If you are confronted with a particular issue, contact your state's attorney to research how the latest law applies to such issue.

County Bridges

The duty to construct and maintain all bridges and culverts throughout the county, except upon the state trunk highway system, is imposed upon the county commissioners, subject to the conditions relating to bridges and culverts on secondary highways in the townships. (SDCL 31-14-2)

After determining the necessity for county bridges, the board of county commissioners requires the county highway superintendent or a registered engineer retained by the county board to make a drainage investigation of the bridge site (SDCL 31-14-3). The profile, location, soundings and estimated watershed of each bridge is forwarded to the department of transportation together with a request for plans and specifications for the bridge or related work or information as may be used by the registered engineer in preparing plans and specifications for the work, which must conform to the design requirements of the American Association of State Highway Officials. In any case, the plans and specifications are forwarded to the proper county auditor. (SDCL 31-14-5).

Each bid in excess of fifty-thousand dollars (\$50,000.00) may be accompanied by a certified check (certified by a state or national bank domiciled within the state) in the sum of five percent of the total amount of the bid (SDCL 31-14-8). Alternatively, each bid in excess of fifty-thousand dollars (\$50,000.00) may be accompanied by a bid bond issued by a surety authorized to do business in the state in the sum of 10 percent of the total amount of the bid. (SDCL 31-14-8). To be effectual for any purpose, the bid and check or bond must be enclosed in sealed envelope and deposited with the county auditor before the hour of opening the sealed bids.

Counties may build their own bridges, abutments, approaches and foundations, and make repairs by day labor without advertising for bids on any county bridge or other related work. (SDCL 31-14-20).

When any township board of supervisors requests the county board to construct or replace in its entirety any bridge or the placing or replacing of any culvert with an opening of sixteen square feet or more, including material upon the secondary roads within the township, the county board may cause the request to be filled. The township reimburses the county up to and including five hundred dollars. If the cost is in excess of five hundred dollars, the county and township may enter into an agreement as to how the cost in excess of five hundred dollars will be split between the county and the township. After the placing or replacing of any culvert, it must be maintained and kept clean at the expense of the township. The construction or replacing of any bridge or the placing or replacing of any culvert with an opening of less than sixteen square feet upon a secondary road within a township must be at the total expense of the township as must be the cost of maintenance and cleaning. (SDCL 31-14-27).

The construction of any bridge, abutment, and approach or repair to a bridge shall follow plans prepared by the department or a registered engineer retained by the board of county commissioners. (SDCL 31-14-4).

If the board approves the proposed bridge, it advises the county highway superintendent of its decision. The bridge plans and specifications are forwarded to the department of transportation for approval.. (SDCL 31-14-3).

Bridge contracts are usually awarded to the lowest bidder and the board may reject any or all bids and advertise for new bids. In lieu of accepting any bids, or in case of emergency, the board may cause the bridge to be constructed by regular county day labor and county owned equipment if the cost is less than any bid submitted. In this instance the county highway superintendent is in charge of the work. (SDCL 31-14-21).

31-14-2. County commissioners' responsibility for bridges and culverts. The duty to construct and maintain all bridges and culverts throughout the county, except upon the state trunk highways system, is hereby imposed upon the board of county commissioners, subject to conditions relating to bridges and culverts on secondary highways in townships.

Source: *SL 1919, ch 333, § 29; SDC 1939, § 28.1402; SL 1955, ch 102, § 1.*

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to decisions and the South Dakota Attorney General Opinion available at the time this manual was created (in no particular order):

- *Rex Tp. v. Bailey Tp.*, 1929, 56 S.D. 119, 227 N.W.2d 488.
- Op.Atty.Gen. Opinion No. 90-20, 1990 WL 596789.
- *Jackson County, S.D. v. Duffy*, 1945, 147 F.2d 227.
- *Hanigan v. Minnehaha County*, 1924, 47 S.D. 606, 201 N.W. 522.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-14-3. Drainage investigation of new or replacement bridge site. After determining the necessity for any new or replacement bridge in the county, the board of county commissioners shall advise the county highway superintendent of the determination, and require the superintendent or a registered engineer retained by the board of county commissioners for that purpose to make a drainage investigation of the bridge site.

Source: *SL 1919, ch 333, § 31; SL 1921, ch 386; SDC 1939, § 28.1404; SL 1961, ch 142, § 1; SL 2018, ch 168, § 39.*

The following resources are no longer included in the West's annotated statutes. They are retained here for reference purposes. *Opinions of Attorney General. Survey of bridges site is mandatory, Report 1919-20, p. 51.*

31-14-5. Bridge plans and specifications--Design requirements--Filing by county auditor. A registered engineer retained by the board of county commissioners or the department shall prepare plans and specifications for bridge repair or construction work. Plans and specifications prepared by a registered engineer retained by the board of county commissioners shall conform to the design requirements of the American Association of State Highway and Transportation Officials. The plans and specifications, whether prepared by the department or by a registered engineer retained for that purpose, shall be forwarded to the proper county auditor who shall place them on file in the auditor's office. A copy shall be forwarded to the department for the department's records.

Source: *SL 1919, ch 333, § 31; SL 1921, ch 386; SDC 1939, § 28.1404; SL 1961, ch 142, § 1; SL 2010, ch 145, § 96; SL 2018, ch 168, § 40.*

** Please note this statute has been reviewed and interpreted by the South Dakota Attorney General. The following is a citation to the South Dakota Attorney General Opinion available at the time this manual was created:

- Op.Atty.Gen. Opinion No. 90-20, 1990 WL 596789.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-14-8. Bid and certified check or bond deposited with county auditor before opening of bids. Each bid shall be made in accordance with the plans and specifications on file. Each bid in excess of fifty thousand dollars shall be accompanied by a certified check, certified by a state or national bank domiciled within this state, in the sum of five percent of the total amount of the bid, or a ten percent bid bond issued by a surety authorized to do business in the state. To be effectual for any purpose the bid and certified check or bond shall be securely enclosed in a sealed envelope and deposited with the county auditor before the hour of opening the sealed bids.

Source: SL 1919, ch 333, § 32; SL 1920 (SS), ch 89; SDC 1939, § 28.1405; SL 1961, ch 142, § 2; SL 2018, ch 168, § 43.

31-14-20. Bridge construction and repairs by county work authorized. Any county of this state may build its own bridges, abutments, approaches and foundations, and make repairs to same by day labor without advertising for bids on any such piece of work.

Source: SL 1919, ch 333, § 32; 1920 (SS), ch 89; SDC 1939, § 28.1405; SL 1961, ch 142, § 2.

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to the decision and South Dakota Attorney General Opinion available at the time this manual was created (in no particular order):

- Op. Atty. Gen. Opinion No. 90-20, 1990 WL 596789.
- *Hamar Const. Co. vv. Union County*, 1976, 248 N.W.2d 65.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-14-27. County construction or replacement of bridges and culverts on township secondary roads--Reimbursement of county. If a township board of supervisors or county highway superintendent requests the board of county commissioners to construct or replace in its entirety any bridge or the placing or replacing of any culvert with an opening of sixteen square feet or more including material upon the secondary roads within the township, the board of county commissioners may cause the work to be done and the township shall reimburse the county up to and including five hundred dollars. If the cost is in excess of five hundred dollars, the county and township may enter into an agreement as to how the cost in excess of five hundred dollars will be split between the county and the township. After the placing or replacing of any culvert as provided in this section, the culvert shall be maintained and kept clean at the expense of the township. The construction or replacing of any bridge or the placing or replacing of any culvert with an opening of less than sixteen square feet upon a secondary road within a township shall be at the total expense of the township. The bridge or culvert shall be maintained and kept clean at the expense of the township.

Source: SL 1919, ch 333, § 30; SDC 1939, § 28.1403; SL 1949, ch 111; SL 1955, ch 102, § 2; SL 1957, ch 127; SL 1974, ch 203, § 1; SL 1980, ch 210; SL 1981, ch 226; SL 2018, ch 168, § 55.

** Please note this statute has been reviewed and interpreted by South Dakota courts and South Dakota Attorney General. The following are citations to the decision and South Dakota Attorney General Opinions available at the time this manual was created (in no particular order):

- Op.Atty.Gen. Opinion No. 90-20, 1990 WL 596789.
- *Township v. Bailey Township* (1929) 56 SD 119, 227 NW 488.
- “Construction or replacing” includes repairing bridges and culverts, Report 1955-56, p. 177; 1959-60, p. 107.
- County obligated to keep all bridges and culverts in repair whether it costs more or less than \$200, Report 1955-56, p. 177; 1959-60, p. 107.
- Duty of county to replace demolished bridge on township secondary highway, Report 1943-44, p. 350; 1955-56, p. 172.
- Installation is part of cost of culvert, Report 1959-60, p. 140.
- Ratification and payment for bridge constructed by township, Report 1923-24, p. 74.
- Unorganized township, no reimbursement of county, Opinion No. 69-48.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state’s attorney and also determine whether any other guidance has been issued.

Cross-References.

Municipal power as to bridges, §§ 9-45-3, 9-45-4.

31-14-4. Plans and specifications for bridge construction--Preparation by department or engineer. Any bridge, abutment, and approach or repair to a bridge required in any county of this state, shall be constructed in accordance with plans and specifications prepared by the department or a registered engineer retained by the board of county commissioners for such purpose. The plans and specifications shall show and describe the style and size thereof, the kind, weight, and quality of all materials to be used in the construction and the proper proportion of the ingredients for mixture and reinforcements.

Source: SL 1919, ch 333, § 32; SL 1920 (SS), ch 89; SDC 1939, § 28.1405; SL 1961, ch 142, § 2; SL 2010, ch 145, § 95.

** Please note this statute has been reviewed and interpreted by the South Dakota Attorney General. The following is a citation for the South Dakota Attorney General Opinion available at the time this manual was created:

- *A bridge includes the structure, abutments, approaches, piers and foundation,* Opinion No. 90-20, 1990 WL 596789.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state’s attorney and also determine whether any other guidance has been issued.

Cross-References:

Adoption of standard plans and specifications by Department of Transportation, see § 31-2-20.

31-14-21. Bridge construction or repairs by county labor--Supervision--Plans and specifications. In lieu of accepting any bids received on any bridge, approach, or abutment, or repair to bridge, or in case of emergency, the board of county commissioners may, if in the board's judgment the bridge or piece of work may be procured for less money than the amount of any bid submitted, cause the same to be built by day labor by regular county labor and county-owned equipment. The county highway superintendent shall be in charge of the construction. The superintendent shall hire a foreman, purchase the necessary material, and hire the necessary labor for the

construction of each bridge, or piece of work. The work shall be done in accordance with plans and specifications furnished by the department or a registered engineer, the same as any other bridge or piece of work let by contract.

Source: *SL 1919, ch 333, § 35; SDC 1939, § 28.1408; SL 1959, ch 138; SL 2010, ch 145, § 100; SL 2018, ch 168, § 51.*

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following are citations to decisions available at the time this manual was created (in no particular order):

- *State ex rel. Small v. Hughes County Commission*, 1965, 81 S.D. 238, 133 N.W.2d 228.
- *Hamar Const. Co. v. Union County*, 1976, 248 N.W.2d 65.
- *Bak v. Jones County*, 1973, 87 S.D. 468, 210 N.W.2d 65

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

Bridge Construction Supervision

An inspector may be appointed by the highway superintendent when there is need for constant inspection of bridge construction. He receives his compensation out of the county bridge fund. Moreover, the county highway superintendent reports to the county board every thirty days or as often as it may require, as to the progress of work done by the contractor. Upon receipt of the periodic reports, the board members may make partial payments for the bridge work completed. (SDCL 31-14-17, 31-14-18).

31-14-17. Supervision of construction by county highway superintendent – Appointment and compensation of inspector. The county highway superintendent shall have supervision of construction of any and all bridges built by the county and he shall have the power to appoint an inspector for any such bridge or piece of work at any time when in his judgment constant inspection of the same is necessary. The compensation of such inspector shall be paid out of the county road and bridge fund and be charged as part of the cost of the particular bridge in question.

Source: *SL 1919, ch 333, § 34; SDC 1939, § 28.1407.*

Cross-References.

Supervision of construction and maintenance by Department of Transportation, see § 31-2-21.

31-14-18. Progress reports by county highway superintendent – Partial payments on contracts. The county highway superintendent shall report to the board of county commissioners every thirty days, or so often as they may require, as to the progress and character of the work done by the contractor of each bridge, or piece of work built by the county, and upon the report of said superintendent, partial payments in the amounts and manner specified for each particular bridge or piece of work shall be made. None of such partial payments, however, shall be held to constitute an acceptance of the work in whole or in part by the county.

Source: *SL 1919, ch 333, § 34; SDC 1939, § 28.1407.*

Purchase of Materials for Bridge Construction

If the county board deems it advisable, it may purchase highway materials, such as cement, sand, stone, metal, culverts, reinforcement steel or other material to be used in the construction of roads, bridges or culverts. The purchase must be in quantities sufficient to meet the estimated need of the county for the succeeding twelve months. This estimate is prepared by the county highway superintendent. The superintendent prepares specifications of the quality of materials and submits them for the approval to the department of transportation. (SDCL 31-14-23)

31-14-23. Purchase of twelve months' supply of materials--Estimate by county highway superintendent--Specifications. If it is deemed advisable by the board of county commissioners, the board may purchase material to be used in the construction of roads, bridges, and culverts, in quantities sufficient to meet the estimated demand of the county for the materials for the next succeeding twelve months. Before purchasing the materials, however, the board of county commissioners shall direct the county highway superintendent to prepare an estimate setting forth the needs of the county during the twelve months. The county highway superintendent shall prepare specifications of the quality of all materials. No patented material may be specified to the exclusion of unpatented material.

Source: SL 1919, ch 333, § 35; SDC 1939, § 28.1409; SL 2010, ch 145, § 102; SL 2018, ch 168, § 53.

The following opinion is no longer listed in West's annotated SDCL. It is included here for reference purposes. **Opinions of Attorney General.** Advertising for competitive bids, necessary of, Report 1963-64, p. 333.

Emergency Bridge Contracts

If the county board feels the public would be seriously inconvenienced in awaiting the advertising for bridge contract bids, it may enter into the contract without advertising for the letting of such contract. (SDCL 31-14-24).

If there are sufficient funds in the road and bridge fund for the payment of the emergency work, the county board may issue emergency warrants upon the assessments made and contemplated for road and bridge work. (SDCL 31-14-26).

31-14-24. Emergency contracts for repair of bridges and approaches authorized. Whenever an emergency arises requiring immediate expenditure for the repair or rebuilding of bridges an approaches to bridges, when such bridges and approaches to bridges are required to be built immediately, and on such short time that in the judgment of the board of county commissioners the public would be seriously inconvenienced in awaiting the regular advertising for bids for such building and rebuilding of bridges and approaches, the board of county commissioners may enter into contract for any such building or rebuilding of bridges and approaches to bridges without advertising for the letting of any contract therefore.

Source: SL 1920 (SS), ch 33, §1; SDC 1939, § 28.1410.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time the manual was created:

- *Bak v. Jones County*, 1973, 87 S.D. 468, 210 N.W.2d 65.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-14-26. Insufficient funds to pay emergency contract – Issuance of emergency warrants. If there are not sufficient funds in the road and bridge fund of any county for the payment of work authorized by §31-14-24 the county commissioners are hereby authorized to issue emergency warrants based upon the assessments made and contemplated for road and bridge work.

Source: SL 1920 (SS), ch 33, § 2; SDC 1939, § 28.1410.

Bridge and Culvert Inspection

The county highway superintendent should inspect the culverts on secondary highways which are not regularly inspected by the townships and submit a report with recommendations for repairs to the county board. (SDCL 31-14-34).

31-14-34. Inspection of culverts on secondary highways and county highway system – Duty of county highway superintendent. The county highway superintendent shall make inspection of all culverts on secondary highways other than those described in § 31-14-33 and of all culverts on the county highway system and report to the board of county commissioners, which shall cause necessary repairs to be made.

Source: SDC 1939, § 28.1415.

Bridges Between Counties

Two counties which join along any highway or meandered stream are required to enter into an agreement to divide that portion of the county line into two or more parts. Each county assumes liability for the construction and maintenance of all necessary bridges upon the portion of the county line in the district allotted to it. If the stream running between the counties is so large that one county alone cannot afford to build a bridge over it, the counties involved may divide the expense equally (SDCL 31-14-35). In assigning the apportionment of construction, the respective county boards are to take into consideration the number of bridges and the extent of highways that must be built and maintained in each district; and, in apportioning the same into districts, they must attempt to equalize as nearly as possible the burden of highway and bridge maintenance. (SDCL 31-14-36)

31-14-35. County line bridges – Agreement apportioning responsibility – Cost of large bridges divided equally. It shall be lawful and the duty of the respective boards of county commissioners of the counties adjoining any highway or meandered stream on a county line in this state to divide that portion of such county line between such counties into two or more parts or districts, and to enter into an agreement and contract providing that each such counties shall assume the liability and become responsible for the construction and maintenance of all necessary bridges upon such county line in the district allotted to such county. In case the stream forming the boundary between two counties shall be so large that one county alone is unable to build a bridge out of the ordinary amount of funds available, it shall be the duty of the two counties when a bridge is built over such stream to divide the expense equally between such two counties.

Source: SL 1913, ch 114, § 1; RC 1919, § 8686; SDC 1939, § 28.1417.

Cross-References:

County names and boundaries, Chapter 7-1.

31-14-36. County line bridges – Considerations in apportioning responsibility between counties – Apportionment by department. In making such apportionment of any highway or meandered stream constituting the county line between two or more counties, as provided by § 31-14-35, the respective boards of county commissioners shall take into consideration the number of streams crossing the highway and the probable necessity of the number of bridges to be constructed and to be kept in repair upon the county line. In apportioning the highway or stream, the boards shall equalize, as near as possible, the burden of building and maintaining the bridges on the highways of the county line. In case of a failure to apportion any such highway or meandered stream, as provided in § 31-14-35, the same shall be apportioned by the department.

Source: *SL 1913, ch 114, § 2; RC 1919, § 8687; SDC, § 28.1418; SL 2010, ch 145, § 104.*

Navigation on Rivers

The county commissioners of the counties bordering the Missouri river may, upon a majority vote of the qualified electors of the county, expend money from the general fund to improve navigation on the river. The funds are to be expended in conjunction with appropriations made by the United States Government in proportionate amounts as may be agreed upon by the commissioners and the chief on engineers of the United States Army. (SDCL 46A-15-4)

46A-15-4. Improving navigation on Missouri River – Expenditure of funds by counties, affirmative vote of qualified voters – Appropriations of county funds. The county commissioners of any county bordering the Missouri River may, upon an affirmative vote of the qualified voters of the county, expend money for the purpose of improving navigation on the river where the river borders the county. The funds shall be expended in conjunction with appropriations made by the United States government in proportionate amounts as may be agreed upon by the county board of commissioners and the chief of engineers of the United States Army for the purpose of aiding in the securing of a permanent navigable channel in the river. The funds shall be expended in accordance with plans conforming to the character and approved methods of improvement of the river as determined by the chief of engineers of the United States Army. The county commissioners may appropriate moneys out of the general funds of the county available for county purposes to meet the expense of any such improvements.

Source: *SL 1929, ch 176; SDC 1939, § 12.2902; SDCL, § 46-27-4; SL 2011, ch 165, § 536.*

Cross-References:

Municipal stream improvements and flood control, Chapter 9-36.

Bridge Posting Requirements and Recommendations

Contact the South Dakota Department of Transportation for the latest version of Posting Requirements and Recommendations of Bridges and Rating Levels as set forth in the American Association of State Highway and Transportation Officials Manual for Bridge Evaluation.

Link to SDDOT Federal Aid Bridge Replacement Resolution

The SD Department of Transportation resolution for programming a structure replacement project can be found at the following link under “Resolutions” as ‘County & Urban Bridge Projects’:
<https://dot.sd.gov/doing-business/local-governments/forms-documents>