

**Volunteer Fire Companies, Proper Custodian of Special Tax for
Apparatus and Maintenance.**

The county treasurer is the proper custodian of the special tax levied and collected under the provisions of Section 3237, Political Code, for apparatus and maintenance of volunteer fire

departments, and such tax money can be paid out of the treasury only upon warrant.

Helena, Montana, Sept. 12, 1905

Hon. C. R. Stranahan, County Attorney, Boulder, Montana.

Dear Sir:—I am in receipt of your letter of the 6th, submitting the question as to who is the proper custodian of funds paid into the county treasurer under Section 3237, Political Code.

Under the provisions of that section the board of county commissioners are authorized to establish fire limits in any unincorporated town or village and to levy a special tax upon the property therein for the purpose of buying apparatus and maintaining the fire department thereof, and such tax must be collected as other taxes. The power of the board with reference to this special tax provided for by this section extends only to an unincorporated town or village. Such a town or village has no organized government of its own and is under the government of the board or county commissioners in the same manner as other parts of the county, outside of incorporated cities and towns. No authority is conferred by this section, or by any of the preceding sections of the chapter of which it is a part, upon the county treasurer to disburse this money to any one. Subdivision 5, Section 4350, Political Code, provides that the county treasurer must "disburse the county moneys only on county warrants issued by the county clerk, based on orders of the board of county commissioners, or as otherwise provided by law." Inasmuch as the law does not "otherwise" provide as to how this fund raised by this special tax shall be disbursed, it can only be disbursed by warrants based on orders of the board of county commissioners.

The fire department in the preceding sections may determine and recommend to the board what fire apparatus is necessary, but the payment therefor out of this special fund can only be made by act of the board of county commissioners in causing warrants to be issued therefor.

Fire companies, organized under this chapter, are volunteer companies, and there is nothing compulsory as to the tenure of membership. The treasurer is not required to give bond or take an oath of office, and none of the officers of the company are vested with authority to draw warrants on the county treasurer or to receive public moneys collected by reason of this tax.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.