

Cities and Towns, Collection of Poll Taxes in. Tax, Poll, Collection of in Cities and Towns. Tax, Poll, Amount of and Age Limit.

Cities and towns have authority to levy a road and poll tax of two dollars upon all male residents between the ages of 21 and 45 years, which tax, in the absence of an ordinance providing for the collection thereof, must be collected by the county treasurer.

Helena, Montana, September 24, 1909.

Board of County Commissioners,
Miles City, Montana.

Gentlemen:

I am in receipt of a letter of September 20, written by O. C. Haynes, clerk of your board at your request, together with enclosures, being copy of your letter addressed to Mr. Sharpless Walker, county attorney, bearing date September 16, and his reply thereto, bearing date September 17, respecting the collection of poll taxes in cities.

In the reply of the county attorney to your letter, you are referred to Opinions of the Attorney General 1905-06, page 346, wherein this office addressed Honorable John H. Tolan, county attorney of Deer Lodge County, with respect to the interpretation of what is now section 1344, revised codes. This section of the revised codes seems to repeal section 3361, revised codes, and also subdivision 49 of section 3259, revised codes. There is, therefore, no authority whereby a city or town council may levy a tax of more than \$2.00 as a special road poll tax. The age limit, as fixed by section 1344, is 50 years.

You are therefore advised that a special levy of \$3.00 for road purposes upon male inhabitants of the city of Miles City, between the ages of 21 and 45 years, is not a valid enactment.

The county officers should proceed to collect the tax under the provisions of section 1344, revised codes.

You are further advised that you have no authority to change the figures of the assessor on the tax roll from \$2.00 to \$3.00, as we believe that the \$2.00 tax is the maximum fixed by law.

If the city clerk has certified to you a list of persons liable to this special road tax, I advise you to return this to the treasurer, without change, and in the event that any question is raised as to the validity of the \$3.00 tax, let that question come from some person whose name appears as subject thereto.

Very truly yours,

ALBERT J. GALEN,

Attorney General.