

**Taxes, Special Improvement. Special Improvement Taxes.
Certification of to County Clerk.**

There is no provision of law whereby the county treasurer can insist that special improvement taxes or assessments shall be certified up to him in book form.

October 8, 1914.

Hon. F. R. Cunningham,
County Clerk and Recorder,
Lewistown, Montana.

Dear Sir:

I am in receipt of your communication under date of September

25th, asking me on behalf of the county commissioners of your county, the following question:

"Is there provision in the statutes whereby the county treasurer can insist that the special improvement taxes or assessments be certified up to his office by the city authorities in book form and extended in the proper manner?"

The provisions of law relating to the collection of municipal taxes by the county treasurer are found in Section 27 of Chapter 89 of the Laws of 1913, and Sections 3356 and 3358, Revised Codes of Montana, 1907. Section 27 of Chapter 89, Session Laws of 1913, is as follows:

"It shall be the duty of the city treasurer of every city whose taxes for general, municipal and administrative purposes are certified to and collected by the county treasurer in accordance with the provisions of Section 3358, Revised Codes of Montana of 1907, on or before the first Monday of October of each year, to certify to the county treasurer of the county in which such city is situated, all special assessments and taxes levied and assessed in accordance with any of the provisions of this Act, and the county treasurer must collect the same in the same manner and at the same time as said taxes for general, municipal and administrative purposes are collected by him.

"In every city which shall provide by ordinance for the collection of its taxes for general, municipal and administrative purposes by its city treasurer, such city treasurer shall collect all special assessments and taxes levied and assessed in accordance with any of the provisions of this Act, in the same manner and at the same time as said taxes for general, municipal and administrative purposes are collected by him; and all of the provisions of Section 3357 of the Revised Codes of Montana of 1907 shall apply to the collection of such special taxes and assessments in the same manner as such provisions apply to the collection of other city taxes. When one payment becomes delinquent all payments shall, at the option of the city council, by appropriate resolutions duly adopted, become delinquent, and the whole property shall be sold the same as other property is sold for taxes."

Section 3356 provides in part as follows:

"The County Treasurer of each county must collect the tax levied by all cities and towns in his respective county, except in case of such cities of the first and second and third classes as may provide by ordinance for the city treasurer to collect the taxes from such corrected assessment book. The county treasurer must collect such city or town taxes, including unpaid road poll taxes, at the same time as the state and county taxes with the same penalties and interest in case of delinquency."

Section 3358 provides in part as follows:

"The Council must, on or before the first Monday of October of each year, by resolution, determine the amount of

city or town taxes for all purposes, to be levied and assessed on all taxable property in the city or town for the current fiscal year, and the city clerk must at once certify to the town treasurer a copy of such resolution, and the county treasurer must collect the taxes as in the Article provided."

From the above quoted section of the law, and especially section 27 of Chapter 89, it will be seen that the city treasurer is required to certify to the county treasurer all special assessments and taxes, levied and assessed, in accordance with Chapter 89, on or before the first Monday of October of each year. The provisions of said Section 27 of Chapter 89, being essentially a re-enactment of Sections 3356 and 3358, Revised Codes of Montana, 1907. I find no provision denoting any special form in which such levies shall be certified up, or making the cost of extending such upon the assessment books a charge against the city, and unless there is specific statutory authority for such procedure, the city cannot be required to furnish books or pay for this work.

You are, therefore, advised that there is no provision in the laws of Montana, whereby the county treasurer can insist that special improvement taxes or assessments shall be certified up to him in book form.

Yours very truly,

D. M. KELLY,
Attorney General.