

**Taxes—Levy for Road—City Property Taxable—Electors.**

If a tax levy for road purposes is made under Chapter 160, Session Laws of 1919, property within cities and towns is subject thereto, and electors residing within such city or town may vote at an election for the purpose of submitting the question of making such levy.

May 8th, 1919.

Board of County Commissioners,  
Libby, Montana.

Gentlemen:

I am in receipt of your telegram as follows:

“Is city property taxable for special five road levy? If not, can electors in cities vote at special election on five mill road levy?  
Answer.”

Your telegram is somewhat indefinite as it does not inform me under what particular law the levy is to be made.

Section 1 of Chapter 2 of Chapter 172, Session Laws 1917, requires the board of county commissioners, for the purpose of raising revenue for the construction, maintenance and improvement of public highways, to levy and cause to be collected a general tax upon all taxable property of not less than two mills, and not more than five mills on the dollar, but expressly provides that the provisions of such section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy and collection of a like tax within such cities and towns for road, street and alley purposes. If the levy is made under this section it will not apply to property within any incorporated city or town which levies a tax for road, street and alley purposes within such city or town, and the electors in any such city or town cannot vote on such question at any special election at which such question may be submitted. However, it does apply to incorporated cities and towns which do not levy and collect such a tax and the electors of such a city or town are entitled to vote at such election.

Chapter 160, Session Laws 1919, authorizes the board of county commissioners, in their discretion, for the purpose of constructing roads and bridges, to make an increased levy upon the taxable property of ten mills or less, the funds derived from such levy to be expended on state and main highways under plans approved by the State Highway Commission.

No exception is contained in this act with reference to cities and towns. but the act expressly provides that the levy shall be made upon the taxable property of the county, consequently a levy under this act applies to all property in the county, both that within and that without the corporate limits of such cities and towns. If, therefore, the levy is to be made under this act property within cities and towns is subject to the levy and tax

and the electors residing within cities and towns are entitled to vote at any election held for the purpose of submitting the question of making such levy to the electors of the county.

Respectfully,  
S. C. FORD,  
Attorney General.