

Road Districts—Levies—Counties.

Where the county performs work within a road district at the request of the district and it is of such a character as to be a proper charge against the district funds the county may charge the district therefor.

Mr. J. W. Hedges,
Chairman, Special Road District No. 2,
Park City, Montana.

September 26, 1932.

My dear Mr. Hedges:

I have your request for an opinion regarding the county levy made upon your special road district in the amount of two mills. You state that this is done in addition to the levy that you are making for the special road district, and wish to know whether the board of county commissioners have a right to make this levy, and also if they have a right to charge for work done for the district.

Under the law the board of county commissioners has authority to make a two mill levy upon the property within the road district as it

has upon all other property in the county. The special road district may then request the county commissioners to make an additional levy up to five mills, making a total of seven mills which may be levied in special road districts, two mills of which goes into the general fund of the county and the other into the fund for the benefit of the special road district.

The county is required to do certain work in the special road district as it is in other parts of the county. The special road district is also charged with certain work in the district. Of course both the county and the road district must pay for work done at their instance from the funds belonging to them. The county, of course could expend the whole of the two mills levied within the district, and also additional money of the county, if it sees fit to do so. On the other hand, if the work is ordered by the road district it must be paid for from its fund. Assuming that the character of the work performed by the county was that required to be done by the road district, I can see no objection to the county charging the district for doing the work. If the work is not solely for the benefit of the district then it would seem that it should be paid for from county funds.

Very truly yours,

L. A. FOOT,

Attorney General.