

work on account of not having an efficient delinquent tax record, as a result of which a considerable amount of delinquent tax revenue is not being realized as it should be. This money is needed very badly by the state, counties, cities, towns and schools of the state.

"Some time ago this department prescribed a complete delinquent tax record and where this record has been installed, we find the collections being handled in a prompt and businesslike manner, but in the counties where this system has not been installed, the work is lagging and in fact, in some counties is just a mess.

"The original cost of installing this system is considerable though the upkeep after installation is very little. Some of our counties wish to install this system at once but they did not make provision for the same in the budget for the present fiscal year.

"The County Budget Act provides that the board of county commissioners may pass an increased or emergency budget for any item that is a mandatory expense upon the county. The statute gives the state examiner the power to prescribe the methods and forms of accounting for all county officers. The question now arises, in view of the fact that the state examiner has required that this system be installed, can he make the cost of such installation a **mandatory** expense for which an emergency budget may be created upon proper resolution duly passed by the board of county commissioners?"

Section 210, R. C. M., 1935, reads:

"The duties of the state examiner and his assistants are: * * *

"2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts, and the educational, charitable, penal, and reformatory institutions of the state of Montana, and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the state examiner, and all county, city, town or school district officers, and officers of educational, charitable, penal and reformatory institutions of the state of

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Opinion No. 150.

State Examiner—Powers—Counties—
Methods of Accounting—
Emergency Expenditures.

HELD: The state examiner under Section 210, R. C. M., 1935, has power to prescribe a delinquent tax record for the counties and should he do so the counties are compelled to conform therewith.

The expense incident to installing a delinquent tax record prescribed by the state examiner is a mandatory expenditure required by law and such expenditure may be made as provided by Section 4613.6 of the Budget Law.

October 11, 1939.

Hon. W. A. Brown
State Examiner
The Capitol

Dear Mr. Brown:

You have requested my opinion upon the following:

"The collection of delinquent taxes has increased very materially in the several counties during the past year, but we find that many of the counties are handicapped and slowed up in this

Montana are hereby compelled to conform therewith." (Emphasis ours.)

This section gives the state examiner power to prescribe the general methods and details of accounting, which includes a complete delinquent tax record. It is comprehensive and makes no exceptions. Should the state examiner prescribe a delinquent tax record for the counties of the state, they would be compelled to conform thereto. Since they are compelled to conform thereto, the expense incident thereto would be a "mandatory expense required by law" within the meaning of Section 4613.6, R. C. M., 1935, and an emergency expenditure which could be made in the manner provided by this section.