

No. 474

COUNTY COMMISSIONERS—COUNTIES—SPECIAL  
IMPROVEMENTS—TAXATION

**Held:** County Commissioners are authorized under Section 4592, Revised Codes of Montana, 1935, to make repairs necessary to keep special improvements in operation and to pay cost thereof by assessing entire district.

September 1, 1942.

Mr. Earl C. Ammerman  
County Attorney  
Park County  
Livingston, Montana

Dear Mr. Ammerman:

You have submitted facts showing the board of county commissioners, acting under the provisions of Sections 4574 to 4603, Revised Codes of Montana, 1935, created a special improvement district in the town of Gardner, Montana, an unincorporated town, for the purpose of installing a sanitary sewer system. Before the system meets the approval of the State Board of Health, certain defects and other minor details must be cared for and corrected. You ask the opinion of this office whether the commissioners are authorized, under Section 4592, Revised Codes of Montana, 1935, to pass and adopt a resolution providing for an assessment against the entire district under Section 4576, Revised Codes of Montana, 1935, to provide the necessary funds to make these repairs.

While your letter does not so state, it is assumed for the purpose of this opinion the system has been constructed in full compliance with the plans and specifications prepared by the engineer in charge and there has been no default on the part of the contractor in the performance of his contract; further, it is presumed the required work is of such a nature as is usual and incidental to keeping a system in repair and operation.

Based upon these premises, it is the opinion of this office the board of county commissioners is authorized to proceed under Section 4592, Revised Codes of Montana, 1935, said section specifically providing it is the duty of the board to keep said improvements in proper repair and operation in such manner as the board shall deem suitable and proper, and to pay the whole cost thereof by assessing the entire district in the method prescribed for Section 4576, Revised Codes of Montana, 1935.

Sincerely yours,

R. V. BOTTOMLY  
Attorney General