

**Opinion No. 34**

**COUNTY COMMISSIONERS, Powers of, Taxation, fire district levies—  
TAXATION, Assessments, Assessed Valuations, fire district  
levies—Section 11-2008, R.C.M., 1947—Section 11-2009, R.C.M.,  
1947—Section 11-2010, R.C.M., 1947—Section 28-603,  
R.C.M., 1947—Attorney General's Opinion No. 118,  
Volume 18**

**Held: 1. Attorney General's Opinion No. 118, Volume 18 of 1939 has  
not been changed by subsequent amendments to Section  
11-2008, R.C.M., 1947.**

**2. Section 28-603, R.C.M., 1947 is not in conflict with, or supple-  
mentary to, Section 11-2008, R.C.M., 1947.**

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October 15, 1959

Mr. John C. Harrison  
Lewis and Clark County Attorney  
Helena, Montana

Dear Mr. Harrison:

You have requested my opinion on the following questions:

1. How many mills can a fire district levy to perform its functions under Sections 11-2008, 11-2009 and 11-2010, R.C.M., 1947;

2. Is such tax against the assessed or taxable value of the district;
3. Is Section 28-603, R.C.M., 1947, in conflict with or supplementary to the authorization to finance fire districts.

Attorney General's Opinion No. 118, Volume 18 interpreted Section 11-2008, R.C.M., 1947, as it existed in 1939. Subsequent amendments to this section have not been of such a nature as to change that Opinion. Therefore, your first and second questions are answered by that Opinion.

Section 28-603, R.C.M., 1947, was enacted as Section 5, Chapter 173, Laws of 1945. The purpose of this act, as set forth in its title, is:

"An act to provide for protection and conservation of range, farm and forest resources, prevention of soil erosion, rural fire control under authority of boards of county commissioners, appointment of county rural fire chiefs and district rural fire chiefs, organization of rural fire control crews, appropriation of funds from the general fund of the county or to levy a tax, and to enter into cooperative agreements for fire control."

Subdivision (5) of this chapter, as revised, provides:

"The board is authorized to appropriate from the general fund of the county not to exceed five thousand dollars (\$5,000.00) per year for the purchase, care and maintenance of fire fighting equipment, or for the payment of wages to skilled operators of heavy mechanized equipment in the suppression of fires when deemed necessary; or if the general fund is budgeted to the full limit, the board may at any time fixed by law for levy and assessment of taxes levy a tax at such rate as in their judgment will be necessary to raise such needed sum not to exceed five thousand dollars (\$5,000.00)."

The limitation placed on the boards of county commissioners by this section is not in conflict with, nor is it supplementary to, the authorization to create and finance fire districts. This section, as indicated by its title, has an entirely different purpose from the sections relating to fire districts. The purpose of this section is to provide county fire protection to those rural areas which have not been incorporated into fire districts.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General