

Reclassification of Counties—Power of Board of County Commissioners.

A Board of County Commissioners may not reclassify a county which has not lost territory from the creation of a new county until the regular meeting of the County Commissioners in September, 1922.

John L. Campbell, Esq.,
County Attorney,
Missoula, Montana.

My dear Mr. Campbell:

You have requested the opinion of this office on the question whether, in view of Chapter 24 of the Laws of the Extraordinary Session of 1919, the County Commissioners may reclassify a county after March 10, 1921, and before the regular meeting in September, 1922.

Section 2975 of the Revised Codes of Montana of 1907 reads as follows:

"The several boards of county commissioners must, at their regular session in September, 1906, make an order designating the class to which such county belongs as determined by the assessed valuation of such county for the year 1906, under the provisions of this Act, and in each even numbered year thereafter; provided that such classification shall not change the government of the county then in existence until the first Monday in January next succeeding."

Chapter 24, *supra*, after providing for the basis of valuation for the purpose of classification, contains the following paragraph:

"Provided, however, that there shall be no reclassification of counties until after March 10, 1921, except in counties from which territory has been taken by the creation of new counties since January 1, 1919."

Chapter 24, supra, does not change the law relating to the date of reclassification. The provision of Chapter 24 to the effect that no reclassification except in counties from which territory has been taken shall be made prior to March 10th merely suspends the operation of Section 2975 until March 10, 1921, and this provision has no operation or effect after that date. Consequently Section 2975 is in full force and effect. The County Commissioners are limited to the authority given them by law, and the only authority given with respect to the time of reclassification of counties is that they may be reclassified at the regular meeting of the County Commissioners in September of even-numbered years.

It is, therefore, my opinion that a Board of County Commissioners may not reclassify a county which has not lost territory from the creation of a new county until the regular meeting of the County Commissioners in September, 1922.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.