

No. 444

**CITIES AND TOWNS—FIREMEN—POLICEMEN—  
WAGES, Minimum and maximum**

**Held:** The statutes governing the wage rate for firemen and policemen in first and second class cities provide a minimum rate of wages only and not a maximum.

It is within the authority and power of a city council, or other governing body, to increase the minimum wage rate of policemen and firemen.

July 13, 1942.

Mr. John Stafford  
County Attorney  
Cascade County  
Great Falls, Montana  
Attention: Mr. R. J. Nelson, Deputy

Dear Mr. Stafford:

You have requested my opinion whether Section 5108.16, Revised Codes of Montana, 1935, relating to wages of members of the police department

of cities of the first class, Chapter 15, Laws of Montana, 1937, relating to wages of members of paid fire departments of cities of the first class, and Chapter 200, Laws of Montana, 1937, relating to wages of members of fire departments in cities of second class, provide a maximum as well as a minimum rate of wage. You had advised that—in your opinion—these statutes provide only a minimum rate of wages, and it is within the power and authority of the city council or other governing body to increase the minimum therein set. With your opinion I agree.

These sections, insofar as necessary to a decision of the question here considered, contain practically the same language and may be considered together.

Section 2 of Chapter 15, Laws of 1937, provides:

“There shall be paid to each member of the fire departments of cities of the first class of the State of Montana a **minimum wage** for a daily service of eight (8) consecutive hours work of at least one hundred and sixty and no/100 dollars (\$160.00) per month for the first year of service, and thereafter of at least one hundred sixty and no/100 dollars \$160.00) per month, plus one dollar (\$1.00) per month for each additional year of service up to and including the tenth year of such additional service, it being hereby expressly declared the purpose and intent of this act to fix the minimum wage of members of the fire department of said cities of the first class of the State of Montana at the sum of one hundred sixty dollars (\$160.00) per month and to increase said compensation annually thereafter at the rate of not less than one dollar (\$1.00) per month for each additional year of active service after the first year thereafter rendered by them, not exceeding ten (10) years of such service after the first year.” (Emphasis mine.)

The language used in these statutes seems very clear and unambiguous and does not require an interpretation. It is clear the legislature intended only to set a minimum base rate, with a minimum increase each year for a period of ten years. Had the legislature intended to set a maximum rate, or to limit the monthly wage a member of the fire or police department could receive, it could easily have so provided. Having failed to do so, it cannot be said the language used, being so clear, may be interpreted so as to set a maximum. To do so, one would have to read into the statute words not found therein. This cannot be done. (*Sullivan v. Anselmo Mining Corporation* 268 Pac. 495, 82 Mont. 543; *Ulmen v. National Surety Co. of New York*, 3 Fed. Supp. 348; *United Missouri River Power Co. v. Wisconsin Bridge and Iron Co.*, 119 Pac. 796, 44 Mont. 343.) There is no language in these statutes from which, by any stretch of the imagination, it can be said the legislature has prohibited the city council or other governing body from increasing the minimum wage rate.

Our Supreme Court in the case of *Northern Pacific Railway Company v. Sanders County*, 66 Mont. 608, 214 Pac. 596, quoting from the opinion in *Osterholm v. Boston & Montana C. C. & S. Min. Co.*, 40 Mont. 508, 107 Pac. 499, said:

“It is not allowable to interpret what has no need of interpretation, or, when the words have a definite and precise meaning, to go elsewhere in search of conjecture in order to restrict or extend their meaning. Statutes should be read and understood according to the natural and most obvious import of the language, without resorting to subtle and forced construction for the purpose of either limiting or extending their operation. . . . A primary rule of construction is that the legislature must be assumed to have meant precisely what the words of the law, as commonly understood, import; and this may be said to be the fundamental and controlling rule of construction.”

The legislature has in other instances provided a maximum rate of wage or salary in definite language. In Section 4874, Revised Codes of Montana,

1935, it is provided the boards of county commissioners shall have the power to fix the compensation allowed any deputy or assistant, and then the legislature specifically used the following language:

“ . . . provided, the salary of no deputy or assistant shall be more than eighty per cent of the salary of the officer under whom such deputy or assistant is serving, unless otherwise provided by law; . . . ”

It is therefore my opinion Section 5108, Revised Codes of Montana, 1935, and Chapters 15 and 200, Laws of 1937, provide a minimum rate of wages for members of fire and police departments. It is my further opinion the city council, or other governing body, has the power and authority to increase the minimum therein set.

Very truly yours,

HOWARD M. GULLICKSON  
Attorney General