

VOLUME NO. 34

Opinion No. 27

HOLIDAYS - Public employees; OFFICES AND OFFICERS - Office hours, holidays. Sections 59-510 (1), 59-510 (2), and 59-1009, R.C.M. 1947.

- HELD:**
1. Public employees shall have off the Friday preceding a legal holiday falling on Saturday, or the Monday following a legal holiday falling on Sunday.
 2. Public offices shall close on the appropriate day if their employees are entitled to have off the Friday preceding a legal holiday falling on Saturday, or the Monday following a legal holiday falling on Sunday.

December 2, 1971

Mr. Doyle B. Saxby
State Controller
State Capitol
Helena, Montana 59601

Dear Mr. Saxby:

I am in receipt of your letter concerning the application of section 59-1009, Revised Codes of Montana, 1947, which provides:

“Any employee of the state of Montana, or any county or city thereof, who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employee’s regularly scheduled days off.”

Your question may be stated as follows:

“Whether a public employee, who normally works Monday

through Friday, is entitled to a Friday off if a legal holiday falls on Saturday.”

Section 59-1009, supra, grants its benefits to “(a)ny employee of the state of Montana, or any county or city thereof . . .” and therefore includes those state, county and city employees who are regularly scheduled to work Monday through Friday.

The statute further mandates that the employee “shall be entitled to receive a day off either on the day preceding or the day following, whichever allows a day off in addition . . .” Therefore, if the legal holiday falls on Saturday, the employee’s regularly scheduled day off, he shall have Friday off because the day following, Sunday, is already a regularly scheduled day off and the dictates of the statute would not be followed. In a like manner, if the legal holiday falls on Sunday, the employee’s regularly scheduled day off, he shall have Monday off because the day preceding, Saturday, is already a regularly scheduled day off.

At first glance the conclusion reached may seem to conflict with sections 59-510 (1) and 59-510 (2), R.C.M. 1947, requiring all officers to keep their offices open for the transaction of business on Monday through Friday of each week. However, it should be noted that each of these provisions contains an exception. Section 59-510 (1), R.C.M. 1947, provides in part:

“Unless otherwise provided by law every officer must . . .”

Section 59-510 (2), R.C.M. 1947, provides in part:

“Unless otherwise provided by law every officer must . . .”

These two provisions regarding office hours will apply unless “otherwise provided by law”. The legislature is presumed to act with full knowledge of the facts and existing law (see: *In re Wilson’s Estate*, 102 Mont. 178, 56 P.2d 733) and, therefore, intended for section 59-1009, supra, to be one of the exceptions as “otherwise provided by law”, as the offices cannot remain open if the employees are given a day off. The fact that the legislature mandated a day off implies that they intended state, county and city offices to close on those days.

THEREFORE, IT IS MY OPINION THAT:

1. State, county and city employees, who are regularly scheduled to work Monday through Friday, are entitled to the benefits of section 59-1009, R.C.M. 1947, and shall have off the Friday preceding a legal holiday falling on Saturday, or the Monday following a legal holiday falling on Sunday.

2. State, county and city offices shall be allowed to close on the appropriate day if their employees are entitled to have off the Friday preceding a legal holiday falling on Saturday, or the Monday following a legal holiday falling on Sunday.

Very truly yours,

ROBERT L. WOODAHL
Attorney General