

**Salaries, County Attorneys—Classification of County.**

A law passed changing the classification of counties after a man has been elected to office cannot increase or diminish his salary or emoluments as fixed by law under the classification of counties under which he was elected to office.

March 10, 1905.

Hon. H. R. Cunningham, State Auditor, Helena, Montana:

Dear Sir:—In compliance with your request for an opinion, as to what effect Senate Bill No. 31, approved February 16, 1905, amending Section 4328 of the Political Code, by changing the classification of counties, has upon the salaries of county attorneys, I respectfully submit the following:

Section 31, of Article V, of the Constitution of Montana, reads as follows:

“Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment.”

Section 4331, of the Political Code, provides that the board of county commissioners must, at the regular meeting of the board in the month of September, in each even numbered year, make an order designating the class to which their county belongs, as determined by the return of the assessed valuation of such county for that year.

This order of the board fixes the class under which the government of said county shall be run for the two years, beginning on the first Monday of the following January, and thereby fixes the salary of all county officers elected at the ensuing general election in November and who take office on the first Monday in January following.

Therefore, all county attorneys who were elected at the last general election are entitled to the salary of such office, as the same was fixed by the statutes and classification of counties at the time they were elected, and said Senate Bill No. 31, changing the classification of counties, can in no way decrease or increase the salary of such officers.

You will draw warrants for county attorneys' salaries whose term began January 2, 1905, for the amount they are entitled to under the classification of their respective counties, as fixed by the county commissioners at the regular September meeting in 1904.

Respectfully yours,

ALBERT J. GALEN,  
Attorney General.