

**Board of County Commissioners, Powers to Raise Salaries of Deputy Sheriffs.**

It is not within the power of a Board of County Commissioners to allow or pay a deputy sheriff a greater salary than the maximum prescribed by law.

Helena, Montana, March 30, 1907

W. L. Ford, Esq.,  
County Attorney,  
White Sulphur Springs, Montana.

Dear Sir:—

I am in receipt of your favor of the 22nd inst. making request for an opinion from this office on the question of whether or not the Board of County Commissioners have the power or authority, under the law, to authorize the payment to a deputy sheriff of a greater salary than that fixed by law.

In answer to your inquiry I will say that it is not within the power or province of the Board to fix the salary of such officer in excess of the maximum prescribed by Section 4596 of the Political Code.

See: Penwell vs. County Commissioners, 23 Mont. 351;  
also Jobb vs. County of Meagher, 20 Mont. 424.

The other question you present for an opinion from this office respecting the right of a member of the Legislature to be appointed, during the term for which he was elected, to a position as deputy County Clerk and Recorder, presents a more difficult question, and will be made the subject of an official opinion from this office as soon as a satisfactory solution has been determined upon.

Respectfully submitted,

ALBERT J. GALEN,  
Attorney General.