

Wages, Authority of Board of County Commissioners to Increase Beyond Maximum Amount Prescribed by Statute.

It is not within the power of the board of county commissioners to allow wages to persons working on county roads in excess of the maximum amount prescribed by law.

Helena, Mont., April 20, 1907.

James E. Murray, Esq.,
County Attorney,
Butte, Mont.

Dear Sir:—

I am in receipt of your favor of the 13th inst., enclosing a letter by you received from the Board of County Commissioners of Silver Bow County, and upon the facts thus presented you make request for an opinion from this office as to whether or not the Board of County Commissioners have authority to allow wages to county laborers in excess of the amount prescribed by law.

We can readily understand the desirability of paying laborers, in some instances, a larger amount per day than that prescribed by statute for such work, considering the increased cost of living and the demand for labor, but it is not within our province, nor that of the Board of County Commissioners, to change the law.

By Section 30, Article IV, of Chapter XLIV, Laws of 1903, it is provided that:

“The road supervisor is empowered to employ suitable laborers, teams and implements, and to contract as to the price to be paid therefor, which must not exceed a rate of three dollars per day for each person.”

The Legislature having thus prescribed the maximum amount to be paid those who labor on the county roads, an amount in excess of that prescribed by law cannot be authorized or paid by or through the Board of County Commissioners, no matter how desirable it may now seem to increase the wage scale of such employees. The only remedy available is an amendment of the law. You should, therefore, advise the Board of County Commissioners that it is not within their power to direct the payment of compensation for such laborers in amount greater than three dollars per day, and that, in the event that they were to do so, they would render themselves liable upon their official bonds.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.