

Deputy Assessor, Salary in Fifth Class County; Salary, of Deputy Assessor in Fifth Class County. Assessor, Salary of Deputy in Fifth Class County.

Chapter 85, Session Laws of 1909, does not provide for additional salary to be paid Deputy Assessors in counties of the fifth class. County Commissioners are not authorized to pay Deputy Assessors in counties of the fifth class any salary exceeding \$100.00 per month.

Helena, Montana, May 4, 1909.

Board of County Commissioners, Anaconda, Montana.

Gentlemen:

I am in receipt of your letter of April 30, asking me to construe the recent law passed by the last legislative assembly pertaining to the salary of deputies in counties of the fifth class.

I have heretofore, in three opinions, interpreted this law. One of these opinions, dated March 23, 1909, is addressed to the County Attorney of your county; another to Honorable O. D. Gray, County Attorney of Teton County, and the third to the Board of County Commissioners of Flathead County.

I am enclosing you the first two opinions, and am not able at this time to send you a copy of the third, for the reason that all the available copies have been sent out at the request of officers entitled to receive opinions from this office. I will have some additional copies of this last opinion made, and when they are ready I will forward one to you. This last opinion goes thoroughly into every phase of the statute in question, but I believe that the two opinions which I forward to you contain the information asked for in your letter.

You state in your letter that the assessor of your county is allowed a deputy, and ask if the commissioners can allow him a salary of \$125.00 per month, if they so desire.

Chapter 85, Laws of 1909, makes no mention of deputy assessors in counties of the fifth class. The salary is, therefore, governed by Section 3128, Revised Codes, which provides that Deputy Assessors shall not receive more than \$100.00 per month. Section 3123, Revised Codes, provides that the County Commissioners may employ additional deputies whenever in their judgment such greater number of deputies is needed. But this section also places a limitation upon the County Commissioners, which prohibits them from paying a salary in excess of that fixed by law, which in the case of deputy assessors is fixed by Section 3128 at \$100.00 per month.

You are advised therefore, that the commissioners have no authority to pay a deputy assessor a greater salary than \$100.00 per month.

Very truly yours,

ALBERT J. GALEN.

Attorney General.