

Deputies, of County Officers. County Officers, Deputies Of. County Commissioners, Authority Of Over Deputies. Compensation, of Deputies. Auditor, Right to Deputy. County Auditor, Right to Deputy.

The appointment of a deputy to a county auditor in a county of the third class lies within the discretion of the county commissioners.

The county commissioners have control of the number of deputies to the various county officers within the limits prescribed by statute.

Nov. 14, 1911.

Hon. Thomas Downen,
County Commissioner,
Chinook, Montana:

Dear Sir:

I am in receipt of your letter of the 10th inst., in which you request my official opinion as to the authority of the board of county commissioners of your county to control the number and salary of deputies to the various county officers, and in particular, the right of the county auditor of your county to appoint a deputy?

These questions were fully covered by an opinion under date of January 6th, 1911, addressed to Hon. B. L. Powers, your county attorney, a copy of which opinion I enclose you herewith.

However, since the date of that opinion the Twelfth Legislative Assembly, by Chapter 132, Laws of 1911, amended Sec. 3134 and Sec. 3128 of the Revised Codes relative to the appointment of deputies by the county attorney of a county of the third class. By the provisions of said chapter 132, laws of 1911, the county attorney of your county is given authority to appoint one deputy, whose salary is fixed at \$1,500.00 per annum. As to this appointment, it is my opinion the commissioners have no control. With reference to a county auditor, however, the deputies to this officer in a county of the third class are governed by the provisions of Sec. 3128, which provides:

"The whole number of deputies allowed to county auditors in counties of the * * * third class must not exceed one."

This provision, however, does not give the auditor, as a matter of right, the power or authority to appoint a deputy without the consent of the county commissioners, as indicated in the opinion hereinabove referred to and enclosed herewith.

However, should the commissioners in their discretion deem it to the best interests of the county that the auditor be given a deputy, in accordance with the provisions of Sec. 3128, above quoted, then Chap. 132, Laws of 1911, fixes the salary of such deputy auditor at \$1500.00 per annum.

Your attention is further called to the opinions of this office found at pages 57 and 135 of the third volume of Opinions of Attorney General, copy of which may be found in the office of your county.

Very truly yours,

ALBERT J. GALEN,

Attorney General.