

County Health Officer, Selection Of. City Health Officer, Selection Of. Boards of Health, Local and County. Board of County Commissioners, Power Of. Salary, County Health Officer.

The board of county commissioners in fixing the salary of the county health officer is not limited by the provisions of Sec. 1485.

The appointment of county health officer and the selection of physician to furnish medical attendance etc., are separate and distinct and the appointment and contract should be kept separate.

The county board is under no obligation to let the contract for furnishing medical attendance, etc., to the county health officer.

January 16, 1912.

Hon. S. P. Wilson,
County Attorney,
Deer Lodge, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 11th inst., submitting for consideration of this office the following questions:

1. Under Section 1485 of the Revised Codes, is the salary of the county health officer in a sixth class county limited to \$600.00 per annum, or may such salary under Section 1492 be such an amount as the board of county commissioners may fix?

2. May the board of county commissioners in entering into a contract for the furnishing of medical attendance to the sick, poor, and infirm, and the inmates of the county jail under section 2056 in the same contract, contract with a physician to act as county health officer as contemplated by Section 1492; or should the appointment made under Section 1492 be a separate and distinct appointment from the contract made under Section 2056?

3. Under Section 1492 may the board appoint a different physician as county health officer from the one who contracts to furnish medical attendance and medicine for the sick and inmates of the county jail under Section 2056?

These questions will be considered in their order:

Sec. 1485, Revised Codes, relates to the salary of local boards of health, that is, those within incorporated cities or towns and confers

authority and limitations upon said city and town councils, while Sec. 1492 relates to county boards of health and confers authority upon boards of county commissioners. The two sections relate to separate offices under separate boards and under separate jurisdictions. Hence, the provision of the one section is not limited by the provision of the other. The county commissioners may therefore fix the salary of the county health officer as to county boards of health without regard to the provisions of Sec. 1485.

The county health officer appointed under Sec. 1492 is a public officer. The physician named in Sec. 2056, Revised Codes, obtains his employment under contract, not under appointment. He is also required by the provisions of Sec. 2058 to give a bond. These contracts are in their very nature separate and distinct. In fact, the one as to the county health officer is not, strictly speaking, a contract at all, but an appointment to a public office. For these reasons I conclude that the appointment of the county health officer under Section 1492 and the contract with the physician under Section 2056 should be kept separate.

The appointment of the county health officer under Section 1492 and the contract with the physician under Section 2056 being wholly separate and distinct, it necessarily follows that there is no obligation resting upon the board to select the same person for both positions, but different physicians may be selected.

Yours very truly,

ALBERT J. GALEN

Attorney General.