

State Text Book Commission, Public Office. Women, Ineligible to Membership State Text Book Commission. Public Officer, Text Book Commissioner Is.

By the provisions of Section 791 to 804 inclusive the state text book commission is created, membership upon this commission is a public office and women are ineligible to membership of said commission.

February 29, 1912.

Hon. Edwin L. Norris, Governor,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 27th inst., wherein you request my opinion upon the question:

“Whether under the laws of the State of Montana a woman is eligible to appointment to membership on the State Text Book Commission?”

The provisions of law relative to the State Text Book Commission are found in Sections 791 to 804 inclusive, of the Revised Codes of 1907. It is my opinion that a membership on the State Text Book Commission constitutes a public office within this state. By the provisions of Section 791, Revised Codes, the number of members is designated, the term of office of each member is fixed at a definite period, the manner of appointment is prescribed, and provision is made for the filling of a vacancy should any occur during the term of any of the members. The duties of such commission are prescribed by the chapter, and each commissioner by the provisions of Sec. 792 is required to take the constitutional oath of office, which oath is to be filed in the office of the Secretary of State. Provision is further made for the organization of the commission by the election from among the members thereof of a president and secretary. Further, by the provisions of Sec. 807, the compensation of the members of the state text book commission is provided for and such members, therefore, come clearly within rules laid down by the authorities showing that such person is a public officer.

In an opinion of this office under date of March 22, 1907, addressed to Hon. J. K. Toole, Governor, we discussed at length the right of women to hold public office and collected in that opinion the leading authorities upon the subject. Membership upon the state text book commission being a public office and women being ineligible to hold public office within the State of Montana, except the office of county superintendent of schools and school district positions, it is, therefore, my opinion that a woman is ineligible to appointment to membership on the state text book commission.

Yours very truly,

ALBERT J. GALEN,

Attorney General.