

**Deputy County Attorney, Salary of. Salary of Deputy County Attorney, Increase or Decrease of. Increase or Decrease of Salary of Deputies, Constitutional Provision Does Not Apply to. Public Road, Width of.**

The constitutional provision forbidding the increase or decrease of the salary of an officer during his term does not apply to deputies.

Under the provisions of Section 1390, Revised Codes, the board of county commissioners is authorized to establish a road thirty feet wide if petitioned so to do by those interested.

March 27th, 1914.

Hon. F. H. Cunningham,  
County Clerk and Recorder,  
Lewistown, Montana.

Dear Sir:

Replying to yours of the 24th instant, wherein you inquire as to the effect of a statute decreasing the salary of a deputy county attorney, passed during the term for which the county attorney was elected, and while such deputy was serving, beg to advise that the constitutional provision forbidding the increase or decrease of the salary of an officer during his term does not apply to deputies. The deputy county attorney is not appointed for any particular term, but serves at the pleasure of the county attorney. You will find this matter more fully discussed in Opinions Attorney General, Vol. 2, 1906-08, p. 61, and also in Vol. 4, 1910-12, page 44.

The second proposition submitted in your letter, namely:

"Under what circumstances has the board of county commissioners authority to lay out a road of less width than sixty feet, and has the board authority to lay out a road with a width of thirty feet?"

Beg to advise that Sec. 1339, Revised Codes of 1907, provides:

"The width of all public highways, except bridges, alleys and lanes, must be sixty feet, unless a greater or less width is ordered by the board of county commissioners on petition of the persons interested."

Therefore, the board of county commissioners would have authority to establish a road as narrow as thirty feet in width if petitioned so to do by the persons interested, whom, I take it, would be the petitioners as defined in Sec. 1390, Revised Codes of Montana. That is to say, it is my opinion that if the petitioners, under Sec.

1290, desire the road to be a greater or less width than sixty feet, they should so state in their petition for the opening and laying out of such road.

Yours very truly,

D. M. KELLY,  
Attorney General.