

Clerk of District Court, Deputy of. Deputy, of Clerk of District Court. Salary, of Deputy.

The clerk of the District Court in a third class county is entitled to one deputy as a matter of right, whose salary is fixed by the Board of County Commissioners at not to exceed the maximum provided for by law.

November 18, 1914.

Hon. Wm. L. Hyde,  
County Attorney,  
Superior, Mont.

Dear Sir:

I am in receipt of your letter as follows:

"Will you kindly render me your opinion on the following question:

Is the clerk of the district court, in a seventh class county, entitled, as a matter of right, in every case, to a deputy under the law?

What authority, if any, does a board of county commissioners have in fixing the salary of such deputy?

Is such deputy entitled to the maximum salary as fixed by law (\$100 per mo.) or may the commissioners fix the salary.

In this regard your attention is called to the Session Laws of 1911, Chap. 132, page 376, where the following wording is used:

"-----deputy clerk of the district court not to exceed twelve hundred dollars."

"I would appreciate an early opinion in this matter."

The clerk of the district court is entitled to one deputy as a matter of right, under the provisions of Chapters 93 and 119, Session Laws of the 11th Legislative Assembly.

The authority of the Board of County Commissibners to fix the salary of a deputy clerk of the court is absolute, so long as it does not exceed the maximum prescribed by law, which in the instant case is Twelve Hundred Dollars per annum or less, as the Board of County Commissioners may determine.

Revised Codes, Sec. 3136;

Opinions Attorney General, 1910-12, p. 25.

Yours very truly,

D. M. KELLY,  
Attorney General.