

National Guard, Extra Compensation to Officers, Compensation, Extra to Officers National Guard. Militia Officers, Extra Pay to. Officers, Extra Compensation to.

The provisions of the State Constitution prohibit the payment of extra compensation to any public officer, servant or employee, agent or contractor, after service shall have been rendered or contract made. Neither can any claim be paid which was contracted for without previous authority of law.

February 9, 1915.

Hon. E. C. Day,
Chairman Appropriations Committee,
Helena, Montana.

Dear Sir:

I have the honor to acknowledge receipt of your favor of the 8th instant, relating to House Bill No. 158, making appropriations for "the payment of certain pay due officers of the National Guard of Montana."

There is nothing appearing in the bill that would necessarily bring it in conflict with the provisions of the State Constitution. The last clause of Section 29, Article V, State Constitution, however, prohibits the payment of certain claims by forbidding appropriations being made "providing for the payment of any claim made against the State without previous authority of law, except as may be otherwise provided herein."

There is not any provision of the Constitution which would authorize the payment of extra compensation. In fact the first clause of the Section above referred to, prohibits

“the giving of any extra compensation to any public officer,
servant or employee, agent or contractor, after services shall
have been rendered or contract made.”

If the pay provided in the Bill is, therefore, extra compensation, or in addition to that authorized by Section 1061, et seq. of the Revised Codes, it is in conflict with this provision of the Constitution, and void.

The provisions of Section 12, Article XII of the State Constitution, relating to appropriations, and the providing of tax therefor, has no bearing whatsoever upon this subject, for that Section deals only with the relationship existing between the appropriation and the means providing for meeting the same, and does not assume to enlarge or curtail the authority of the legislature with reference to the class of claims for which appropriations may be made.

Yours very truly,

D. M. KELLY,

Attorney General.