

Auditor, County—Salary, Increase of—Superintendent of Schools—Salary, Increase Of.

A county auditor is entitled to the increased compensation provided for by Chapter 221, Laws of 1919.

A county superintendent is a constitutional officer and therefore her salary cannot be increased during the term of office.

March 17, 1920.

Mr. Thomas E. Gilbert,
County Attorney,
Dillon, Montana.

Dear Sir:

I am in receipt of your letter of the 12th inst., with reference to salaries of County Auditor and County Superintendent of Schools in Beaverhead County, a county of the fifth class.

The County Auditor is entitled to the salary and compensation of \$1,750 per annum fixed by Chap. 221, Sess. Laws 1919, beginning with March 15th, 1919. Such office is one created by the legislature and not by the constitution, consequently the constitutional provision prohibiting the increase of salary or compensation during the term of office has no application to such office and the legislature may increase or diminish such salary or compensation at any time.

The office of County Superintendent of Schools is created by the constitution, Sec. 5, Art. 16, and the constitutional provision prohibiting the increasing or diminishing of salary or compensation during the term of office is applicable thereto. The present Superintendent of Schools in your County having been elected and having qualified and entered upon the discharge of the duties of that office before the enactment of Chap. 219, Sess. Laws 1919, the salary or compensation cannot be increased during the term of office of such incumbent. The present County Superintendent of Schools, is, therefore, not entitled to the salary and compensation of \$1800. fixed by said Chap. 219, Sess. Laws 1919, but to the salary and compensation of \$1500, fixed by Chap. 112 Sess. Laws 1913. The term of office of the present incumbent will expire

on the first Monday in January, 1921, and should the present incumbent be re-elected it will be for a new term, and such incumbent will be entitled to such increased compensation for such new term.

Respectfully,

S. C. FORD,

Attorney General.