

County Clerk—Deputies—Public Administrator—Offices.

A deputy county clerk may hold the office of public administrator. The duties of the two offices are not incompatible.

L. Q. Skelton, Esq.,
State Examiner,
Helena, Montana.

May 12, 1925.

My dear Mr. Skelton:

You have requested my opinion as to whether a deputy county clerk may act as public administrator.

A public administrator is a county officer. (Section 4725, R. C. M. 1921.) It has been held by a former attorney general that a deputy county clerk is also a public officer. (Vol. 2, opinions of attorney general, p. 56.)

Section 4731, after conferring authority upon county and township officers to appoint deputies, provides "but no compensation or salary must be allowed any deputy except as provided in this code." This limitation, however, I believe, was intended to prohibit any compensation or salary except that provided for by law for the services rendered as such deputies and in my opinion does not prohibit compensation from another source for other services.

The question then is: Are the duties of the two offices so incompatible or inconsistent as to prohibit the same person from holding both offices?

The duties of a county clerk are set forth in section 4811, R. C. M. 1921, and a deputy has the same powers and duties. (Section 418, R. C. M. 1921.) The duties and powers of a public administrator are set forth in sections 9990 to 10017, inclusive, R. C. M. 1921.

It is my opinion, therefore, that the duties of a deputy county clerk are not incompatible or inconsistent with those of a public administrator and that the two offices may be held by the same person.

Very truly yours,

L. A. FOOT,
Attorney General.