

Opinion No. 10.

**County Surveyor—Deputy, Salary of
—Employees, Wages of—County
Commissioners.**

HELD: The County Commissioners have a supervisory power concerning the employment and wages or salary of deputy county surveyors and of men and teams by the county surveyor, and if it clearly appears that the expenses incurred by a county surveyor are unreasonable or excessive such claims may be reduced or disallowed by the county commissioners.

December 18, 1934.

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You ask what authority the county commissioners have in relation to the salary and wages of a deputy county surveyor and teams and men employed by the county surveyor.

Chapter 179, Laws of 1931, provides: "The County Surveyor of all counties having a total registered vote of fifteen thousand (15,000) or over, at the last general election shall * * * employ deputies, men and teams, and discharge at his pleasure such deputies, men and teams, and determine how, when and where such deputies, men and teams shall work; * * *"

Under this statute considerable discretion is given to the county surveyor in the employment of deputies, men and teams. The statute does not so expressly state but in the first instance I believe the statute contemplates that the county surveyor may fix a reasonable compensation for same. This power would seem to be implied. However, the law is fully settled that the governing body of a county is its county commissioners.

"Except as otherwise provided by law, a board of county commissioners or county supervisors ordinarily exercises the corporate powers of the county. It is in an enlarged sense the representative and guardian of the county, having the management and control of its property and financial interests, and having original and exclusive jurisdiction over all matters pertaining to county affairs." (15 C. J. 456).

The powers of county commissioners are fixed by Chapter 100, Laws of 1931, amending Section 4465, R. C. M. 1921. Among such powers it is provided:

"18. To fix the compensation of all county officers not otherwise in this code or by general or special law fixed, and provide for the payment of the same; * * *"

"22. To represent the county, and have the care of the county property, and the management of the business and concerns of the county in all cases where no other provision is made by law; * * *"

Subsections 1 and 12 of the same section, and Sections 4605 and 4610, R. C. M. 1921, also refer to the supervisory power of county commissioners.

In the case of *In re Hyde*, 73 Mont. 363, the principle was recognized that while the county attorney was authorized under the law to employ a stenographer in case he found it necessary to do so in the performance of his official duties, yet the county commissioners had a supervisory authority to investigate the necessity of such employment and the reasonableness of the charges therefor. See also, *Manley v. Harer*, 73 Mont. 253.

It therefore follows that the county commissioners have a supervisory power in this connection, and if it clearly appears that expenses incurred by a county surveyor are unreasonable or excessive, such claims may be reduced or disallowed by the county commissioners. The power of the county commissioners, however, may not be arbitrarily exercised and any claimant whose claim is improperly or unreasonably disallowed or reduced may have an appeal to the courts for redress as in other cases.