

Opinion No. 70.**Assessor—Deputies—Salary.**

HELD: Assessor may appoint one regular deputy in county of sixth and seventh class for period of five months, at a salary of \$1650 per year; Extra deputies shall receive a salary of not to exceed 80% of salary of Assessor.

March 29, 1937.

Mr. J. C. Sullivan
County Assessor
Wolf Point, Montana

Dear Mr. Sullivan:

You have submitted to this office a request for an opinion as to the amount of salary a deputy assessor is entitled to receive in sixth and seventh class counties

Section 4867 provides that in a sixth class county, the county assessor shall receive \$1800.00 per year and in a seventh class county, \$1500.00 per year.

Section 4873 provides in counties of the sixth and seventh classes, each deputy assessor or assistant assessor shall be allowed a salary, at a rate of not less than \$1650.00 per year.

Section 4880, which was enacted into law in the year 1905, provides that in counties of the sixth and seventh classes, assessors may be allowed one deputy during months of March, April, May, June and July at a salary not exceeding \$100.00 per month.

It has been held in case of *Modesitt v. Flathead County*, 57 Mont. 216; and

in the Farrell case, 68 Mont. 313, that section 4873 had application to regular deputies and deputies that were appointed during the tenure or term of the principal.

Under the law, a county assessor of the sixth and seventh class counties is not entitled to a deputy during his two year period or term of office for the entire period, and inasmuch as section 4873, and the last subdivision thereof, which provides for the salary of a deputy assessor, was enacted into law in the year 1919, and section 4880 having been enacted into law prior thereto, wherever the last named section conflicts with section 4873, then section 4873 supercedes section 4880.

Under section 4873, the regular deputy of a county assessor must be considered the deputy as provided in section 4880, and when a regular deputy would only hold office during the months of March, April, May, June and July, and the salary that he shall receive has been superceded by section 4873; section 4873 as to this regular deputy for these five months governs; otherwise the provision referred to in section 4873 would be meaningless. Section 8770 reads:

“Interpretation which gives effect is preferred to one which makes void.”

Section 4874 authorizes the boards of county commissioners to fix and determine the number of deputy county officers, and allows the several county officers a greater or less number of deputies or assistants than the maximum number allowed by law, when, in the judgment of said board, such greater or less number of deputies is needed in the discharge of the duties.

This section also provides the salary of any one deputy shall be no more than 80% of the salary of the officer under whom he is serving, unless otherwise provided by law. Inasmuch as no provision has been provided by law for the salary of these extra deputies, other than the regular deputy hereinbefore referred to, the amount of their salary shall be 80% of that of the principal. In other words, in a county of the seventh class, the deputy shall receive \$120.00 per month and in a

county of the sixth class, \$144.00 per month.

Therefore, it is my opinion, that an assessor in a county of the sixth or seventh class shall be allowed one regular deputy for the months of March, April, May, June and July, whose salary shall be at the rate of \$1650 per year and further, if needed, the Board of County Commissioners may appoint special deputy assessors whose salary shall be at the rate of 80% of that of the principal.