

## No. 259

## COUNTY TREASURER—DEPUTIES—COMPENSATION

**Held:** County commissioners may authorize the employment of deputy county treasurers in excess of the number provided by Section 4880 of the Revised Codes of Montana, 1935, as amended, and may fix their compensation at any rate deemed proper, provided it shall not exceed the maximum salary of deputies provided by law.

October 8, 1941.

Mr. Wilbur P. Werner  
County Attorney  
Glacier County  
Cut Bank, Montana

Dear Mr. Werner:

In the county treasurer's office of Glacier County there are employed a deputy, who is paid \$1650 per year as provided by law, and two other persons, who are engaged in the same kind of work as the deputy. The question you have put, under this statement of facts, is whether these persons—other than the one designated as deputy—are, as a matter of law, entitled to the same pay as the person designated as deputy.

Under Section 4880 of the Revised Codes of Montana, 1935, as amended by Chapter 97 of the Laws of 1939, all counties other than first class counties are allowed one deputy treasurer except in the months of November and December, when additional deputies may be allowed by the county commissioners. It is clear, therefore, under the provisions of Section 4880, as amended, that—in all counties other than first class—there shall be no more than one regular deputy who shall receive a salary of \$1650, except that the board of county commissioners may allow such additional deputies as may be necessary during the months of November and December of each year, and may fix the salaries of such additional deputies, provided such salaries shall not exceed the maximum salary of deputies provided by law.

However, under Sections 4874 and 4878, Revised Codes of Montana, 1935, it is provided the board of county commissioners may employ such additional deputies as in their good judgment may be required for the faithful and prompt discharge of the duties of the office. These extra deputies, over and above the maximum number allowed by law, shall receive such compensation as the board of county commissioners may fix, but such compensation shall not exceed the maximum salary of deputies provided by law. (Section 4874 and Section 4878, Revised Codes of Montana, 1935.) These sections were not impliedly repealed or amended by the enactment of Chapter 97 of the Laws of 1939, amending Section 4880 of the Revised Codes of Montana, 1935.

“Court must reconcile prior and subsequent statutes if reconciliation be possible, consistent with legislative intent.”

London Guaranty, etc., Co. v. Industrial Accident Bd., 82 Mont. 304, 266 Pac. 1103.

“Under the well-established rule of construing statutes, . . . every statute must be given effect, when possible.”

State v. Callow, 78 Mont. 308, 254 Pac. 187.

“The language of a statute must be construed in accordance with its usual and ordinary acceptance, having in view the giving of vitality to, and making operative of, all the provisions of law, if possible, and accomplishing the intention of the legislature when ascertainable.”

Hill County v. Liberty County, 62 Mont. 15, 203 Pac. 500.

"The repeal of any of the provisions of law is not to be presumed, unless irreconcilably repugnant to a later statute, or unless such later statute revises the whole subject matter of the former."

State v. District Court of Ninth Judicial Dist., 56 Mont. 464,  
185 Pac. 157.

"Repeals by implication are not favored by the courts."

State ex rel. Bowler v. Bd. of Comm'rs., 106 Mont. 251, 76 Pac.  
(2nd) 648.

State ex rel. Nagle v. Leader Company, 97 Mont. 586, 37 Pac.  
(2nd) 561.

It is therefore my opinion the legislature intended by Section 4880, Revised Codes of Montana, 1935, as amended by Chapter 97, Laws of 1939, to establish the number of regular deputies for the offices therein mentioned and by Sections 4874 and 4878, Revised Codes of Montana, 1935, granted to the board of county commissioners the authority to allow the county officer to appoint an additional deputy or deputies when the board of county commissioners in its sound discretion finds another deputy or deputies are needed in an office for the faithful and prompt discharge of the duties of such office. It is obvious the legislature placed the responsibility of authorizing such additional deputy or deputies on the board of county commissioners, so that in emergencies such public office can function promptly and efficiently for the public good, thus giving effect to Section 4880, Revised Codes of Montana, 1935, as amended by Chapter 97 of the Laws of 1939, and Sections 4878 and 4874, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER  
Attorney General