

Opinion No. 13**Salaries—Deputies and Assistants,
Salaries—Board of County
Commissioners, Fixing of Salaries.**

Held: That Chapter 151 of the Laws of 1945 provides that the highest monthly salary fixed by the board of county commissioners for a particular deputy or assistant in 1946 shall be the lowest salary to be paid for that job after January 1, 1947.

February 21, 1947.

Mr. Truman Bradford
County Attorney
Cascade County
Great Falls, Montana

Dear Mr. Bradford:

You have requested an opinion as to the interpretation of Chapter 151, Montana Session Laws of 1945, insofar as it affects the salaries of deputies for second and third class counties.

You have questioned whether the maximum salaries allowed in any month of the year immediately previous to the date this act becomes effective applies to the office and not to any individual deputy, or assistant, or whether the particular section to which you refer has to do with the in-

dividual deputy or assistant and not to the office.

Since Chapter 151 of the Laws of 1945 provides that the salary of no deputy or assistant shall be more than 80% of the salary of the officer under whom such deputy or assistant is serving, your particular question centers around and relates to the last provision of this statute, namely:

“Provided that after this act shall become effective the maximum salary rate per month of any deputy or assistant should not be less than the maximum salary allowed in any month of the year immediately previous to the date this act becomes effective.”

The effect of this provision is to establish the minimum salary that can be fixed by the board of county commissioners after January 1, 1947 for a particular deputy or assistant, to-wit: the maximum monthly salary paid the deputy or assistant in the particular office during 1946. In other words, the salary of the office after January 1, 1947 shall not be less than the highest monthly salary for that same office in 1946.

I do not interpret this provision to mean that the commissioners are bound to fix the salaries of all deputies or assistants at the same rate or at the same amount. The provision simply limits the discretion of the commissioners by requiring that in fixing the salaries of deputies or assistants after January 1, 1947, they do not fix the salary of a particular deputy or assistant at less than the highest monthly amount paid in 1946 to the holder of the job.

Although this would appear to defeat the purpose of the 80% provision in the act, yet we must take this law as we find it and in so interpreting it we find that the interpretation reveals that the present deputies or assistants will not receive less than the deputies or assistants during 1946, even though such deputies received up to 90% during that period. Such appears to be the complete purpose and intent of the legislature in so adding this proviso to the end of the act.

It is therefore my opinion that Chapter 151 of the Laws of 1945 provides that the highest monthly salary fixed by the board of county com-

missioners for a particular deputy or assistant in 1946 shall be the lowest salary to be paid for that job after January 1, 1947.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General.