

Chapter 219, supra, is an amendment to Section 31-105, R. C. M., 1947, as amended by Ch. 187, Laws of 1951. The salary schedule for patrolmen and other officers before the enactment of Ch. 219 Laws of 1953, was fixed by Ch. 187, Laws of 1951, as follows:

" . . . The salaries of patrolmen and other officers shall not exceed those named in the following schedule, to-wit; Patrolmen: first year two hundred and twenty-five dollars (\$225.00) per month; second year two hundred and sixty-five dollars (\$265.00) per month; third year two hundred and seventy-five dollars (\$275.00) per month; fourth year three hundred dollars (\$300.00) per month; fifth year and thereafter three hundred and twenty-five dollars (\$325.00) per month; sergeants, three hundred thirty-seven dollars and fifty cents (\$337.50) per month; assistant supervisors, three hundred and fifty dollars (\$350.00) per month; supervisor, five thousand dollars (\$5,000.00) per year; provided further, that no salary shall be decreased which is a greater amount as of January 31, 1951, as a result of this Act. . . ."

Opinion No. 39.

Highway Patrol — Highway Patrol Board, Powers of — Salaries of Patrolmen.

HELD: The salary schedule provided for in Ch. 219, Session Laws of 1953, is mandatory, and the highway patrol board does not have the power to fix salaries at less than the amounts specified therein:

July 25, 1953.

Mr. Glenn N. Schultz, Supervisor
Montana State Highway Patrol
Helena, Montana

Dear Mr. Schultz:

You have requested my opinion upon the salaries to be paid highway patrolmen under the terms of Chapter 219, Laws of 1953. Specifically, you have asked whether the Montana Highway Patrol Board has the power to fix salaries at less than the maximum amounts specified in that Act.

That portion of the Act was amended by Ch. 219, Laws of 1953, and now reads as follows:

" . . . The salaries of patrolmen and other officers shall not exceed those named in the following schedule, to-wit: Patrolmen: three hundred and fifty dollars (\$350.00) per month; sergeants, three hundred and seventy-five dollars (\$375.00) per month; assistant supervisors, director of public safety and education, four hundred dollars (\$400.00) per month; supervisor, six thousand dollars (\$6,000.00) per year; provided, however, that the salary of a probationary patrolman shall not exceed two hundred and fifty dollars (\$250.00) per month during his period of probationary service; in the event that said patrolman is appointed permanently, he shall receive his salary at time of appointment plus twenty dollars (\$20.00) per month for each additional year of service up to and including three hundred fifty dollars (\$350.00) per month . . . "

The only changes made by Ch. 219, supra, are to raise the beginning pay of probationary patrolmen, and to standardize the yearly pay increases at twenty dollars per month each year. The system of yearly pay increases, based upon seniority, has been retained intact.

Both Chapter 187, Laws of 1951, and Ch. 219, Laws of 1953, provide that salaries of patrolmen and other officers "shall not exceed those named in the following schedule . . ." (Emphasis supplied.) It is this language which gives rise to the question whether or not the salaries may be fixed at amounts less than the rates specified in the schedule.

Prior to 1951, Section 31-105, supra, provided that the Montana highway patrol board should fix the salaries of patrolmen, subject to the approval of the board of examiners:

" . . . The Montana highway patrol board shall prepare a schedule of compensation and expenses for all patrolmen and submit it to the state board of examiners for their approval . . . "

Ch. 187, Laws of 1951, changed this system, and substituted in its place the system of yearly increase, based upon length of service. After the passage of Ch. 187, Laws of 1951, the full amount specified in the schedule for each grade of patrolman was always paid. That Act was construed, by all the executive agencies involved, as fixing, not a maximum rate which might or might not be paid, but a definite and fixed rate of compensation which **must** be paid. The same language was carried forward unchanged into Ch. 219, Laws of 1953. When the legislature re-enacts a statute which has been interpreted in a particular manner by the executive agency charged with its enforcement, and does not change the provisions so interpreted, it is presumed that the legislature is satisfied with the interpretation, and intends to confirm it. (State v. Brannon, 86 Mont. 200, 283 Pac. 202, Bedford v. Colo. Fuel and Iron Corp., 102 Colo. 538, 81 P. (2d) 752, Helvering v. Bliss, 293 U. S. 144, 56 S. Ct. 17.)

Further, Ch. 219, Laws of 1953, provided that the yearly increases for pa-

trolmen after their probationary period should be fixed in amount and automatic.

It is therefore my opinion that the salary schedule provided for in Ch. 219, Laws of 1953, is mandatory, and the highway patrol board does not have the power to fix salaries at less than the amounts specified therein.