

VOLUME NO. 41

OPINION NO. 6

COUNTIES - Budgeting;
COUNTIES - Setting county commissioners' salaries;
COUNTY OFFICERS AND EMPLOYEES - Setting county
commissioners' salaries;
COUNTY OFFICERS AND EMPLOYEES - Time for setting county
commissioners' salaries;
SALARIES - Setting county commissioners' salaries;
MONTANA CODE ANNOTATED - Sections 7-1-2111, 7-4-2107,
7-4-2503, 7-4-2503(1);
OPINIONS OF THE ATTORNEY GENERAL - 40 Op. Att'y Gen. No.
81 (1984).

HELD: When a county's classification changes
according to section 7-1-2111, MCA, the
salaries of the county commissioners, as

provided in section 7-4-2107, MCA, must change as of July 1 of the following year, the onset of a new fiscal year for the county.

7 February 1985

John P. Connor Jr.
Jefferson County Attorney
P.O. Box H
Boulder MT 59632

Dear Mr. Connor:

You have requested my opinion as to when a change in county classification according to section 7-1-2111, MCA, results in a salary change for county commissioners, according to section 7-4-2107, MCA. I conclude that the rationale of 40 Op. Att'y Gen. No. 81 (1984) requires that a change in salary should not occur until the beginning of the following fiscal year.

Section 7-4-2107, MCA, provides:

Compensation of county commissioners. (1)

Each member of the board of county commissioners in counties of the first, second, third, and fourth class shall receive an annual salary equal to the annual salary established in 7-4-2503 for the clerk and recorder plus \$2,000.

(2) Each member of the board in all other counties is entitled to a salary of not more than \$50 for each day in which he is actually and necessarily engaged in the performance of board duties as set by resolution of the board.

(3) This section does not apply to counties that have adopted a charter form of government.

Because this section refers to county classes, as set by section 7-1-2111, MCA, and because it refers to section 7-4-2503, MCA, the logic of 40 Op. Att'y Gen. No. 81 (1984) is persuasive. That opinion addressed the issue of whether and when there should be a change in salaries for the officials listed in section 7-4-2503(1), MCA.

It was to address only the salaries of the officials listed in section 7-4-2503(1), MCA, but the issue you raised can be resolved by reference to the previous opinion, as the statute setting the salaries of the county commissioners requires computation according to section 7-4-2503, MCA.

Application of the previous opinion leads to the same result for changing the salaries. They must not change until July 1 of the following year, the onset of the new fiscal year.

THEREFORE, IT IS MY OPINION:

When a county's classification changes according to section 7-1-2111, MCA, the salaries of the county commissioners, according to section 7-4-2107, MCA, must change as of July 1 of the following year, the onset of a new fiscal year for the county.

Very truly yours,

MIKE GREELY
Attorney General