

**Opinion No. 48-5136**

March 9, 1948

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mrs. Grace McGhee, Deputy County Assessor, Clovis, New Mexico.

{\*136} Ordinarily, we do not render official opinions to county officeholders unless the request is sent through your legal representative, the district attorney. However, due to the fact that your county clerk will need such information in order to charge candidates the proper filing fee, we are going to acknowledge your request and send a copy of said opinion to the county clerk of Curry County so that he may be guided accordingly.

{\*137} In your letter you state that the valuation for Curry County for 1947 was over \$ 14,000,000, and that, unless the Veterans' exemption cuts it down, it will likewise be well above that figure for 1948, although the valuation for 1948 will not be available by the time the candidates must file.

You then ask whether or not Curry County candidates should be required to pay the 3% filing fee on the basis of salaries received by county officers of second-class counties, or the higher salaries allowed county officers of first-class counties.

Section 15-4102 of the 1941 Compilation provides as follows:

"From and after the first day of January, 1925, the classification of counties shall be fixed and governed by the assessed valuation as finally fixed for the preceding year. Provided: within thirty (30) days after said first day of January, 1925, and within thirty (30) days from the first day of January of each second year thereafter, such classification shall be determined by the state auditor from the assessed valuation of each county as finally fixed for the preceding year, and the state auditor upon making such determination shall notify the board of county commissioners of each county of the class within which each of the counties of this state falls according to such classification and the classification as so fixed and determined by the state auditor shall govern the salaries of county officers for two (2) years thereafter."

From the foregoing section it is my opinion that a change in classification of a county is not effective until after official determination by the state auditor in accordance with the foregoing section.

I am therefore of the opinion that candidates for office in Curry County should pay the 3% filing fee based on salaries now being received by said county officials, in accordance with the salary provision of officers of second-class counties.

Trusting the aforementioned satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General