

**Opinion No. 53-5655**

February 2, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Honorable J. E. Evetts Sheriff, Roosevelt County Portales, New Mexico

{\*42} Fred W. Moxey, Chief Tax Commissioner, has requested an opinion in your behalf concerning whether you, as Sheriff of Roosevelt County, have the authority to set the salaries of your deputies, not to exceed the maximum allowed by law, or whether the county commissioners of your county have that authority. You also want to know whether you have the authority to raise the salaries of your deputies, we assume, in line with the approved budget, and whether the county commissioners have authority to refuse to honor such salary vouchers.

We are informed by the Tax Commission that on January 1, 1953, Roosevelt County became a first class county and that it previously was a second class county.

Section 15-4103 N.M.S.A., 1941 Comp., Pocket Supplement, provides as follows:

"Sheriff, five thousand six hundred dollars (\$ 5,600.00). Deputy sheriffs, a total of not to exceed five thousand two hundred eighty dollars (\$ 5,280.00)."

Under this section you are allowed a definite amount for deputies, being a first class county, namely, \$ 5,280.00, and nothing is said as to how you shall distribute or apportion these salaries among your deputies, so it is left to your discretion and you may pay each party in any manner that you think best. The county commissioners have nothing to do with setting or approving salaries of your regular deputies.

On your second question we find nothing that prevents you from raising the salaries of your deputies if you can do so under an approved budget, and if you have a budget to raise the salaries of your deputies the county commissioners will have to honor the raises.

By: Hilario Rubio

Assist. Attorney General