

Opinion No. 57-185

July 26, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mr. Walter R. Kegel, District Attorney, First Judicial District, County Court House, Santa Fe, New Mexico

QUESTIONS

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May the County Assessor and the County Treasurer pay employees in their respective offices a salary greater than \$ 3,600.00 per year by designating such employees as accountants or appraisers or other like titles in lieu of designating them as deputies?

CONCLUSION

No.

OPINION

ANALYSIS

We cannot categorically say that a deputy county assessor or deputy county treasurer could not be paid, as such, a greater salary than \$ 3,600.00 a year. Section 15-43-4 through Section 15-43-4.10, N.M.S.A., 1953 Comp., 1957 Supp., as well as Section 15-43-5.1 and 6.1, N.M.S.A., 1953 Comp., 1957 Supp., all set a schedule of salaries for county officers and for their respective deputy or deputies, depending upon the class of county. These statutes also provide, on certain conditions being met, that additional deputies may be employed. See also Section 15-43-9 for additional deputies for county clerks. Thus it will depend upon the class of county involved as to what compensation may be paid the deputy assessor or deputy treasurer. Sometimes this compensation will be greater than \$ 3,600.00 a year and sometimes it will be less.

Be that as it may, we believe that the statutes cited aforesaid clearly evidence a legislative intent that the deputies involved should not be paid any greater salary than the sums specified in such statutes, and any attempt to pay such deputies or other employees sums greater than the statutory schedule by means of giving such employees titles as appraisers or accountants, would be but a base subterfuge attempting to evade the statutory classification and maximums. As such, it is not allowable.

We assume that you have no questions concerning those special deputy assessors mentioned in Section 72-2-44, N.M.S.A., 1953 Comp., 1957 Supp.

In conclusion, the maximum salaries as set forth in the above cited statutes classifying the counties is all that may be paid deputy assessors or deputy treasurers and no designation as accountant or appraiser can have any affect upon the statutory provisions so long as the person is in truth a deputy assessor or treasurer.