

## Opinion No. 57-308

November 27, 1957

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

**TO:** Mr. Homer C. Pickens, Director, Department of Game and Fish, Santa Fe, New Mexico

### QUESTION

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"Can a retroactive adjustment be made in an employee's salary within a given month, if said employee is paid on a monthly basis?"

#### CONCLUSION

Yes.

### OPINION

#### ANALYSIS

We assume you have in mind an increase when you speak of "adjustment".

This office has repeatedly held that retroactive salary increases violated Article IV, Section 27, Constitution of New Mexico, which provides:

"No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this Constitution."

An example is Opinion of the Attorney General No. 57-17, dated February 7, 1957.

But we do not believe that here there is in fact any retroactive increase. This case involves services rendered in **November**, and **November** payment for those services. The time unit of compensation is the month in question, and that is all the payment is to cover. Of course, this is to be contrasted with **November** payment (increased) for **October** services, which would be clearly illegal.

Our conclusion is not altered by virtue of payment twice during the month since in our view that is but a matter of convenience to the employees.