

Opinion No. 60-212

November 18, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

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

QUESTION

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What is the correct salary for deputy county assessors in first class counties having an assessed valuation of more than twenty-seven million dollars (\$ 27,000,000), but less than forty-five million dollars (\$ 45,000,000)?

CONCLUSION

Four thousand dollars (\$ 4,000.00) per year.

OPINION

{*631} **ANALYSIS**

Your question requires a reconsideration of Attorney General's Opinion No. 60-171, dated September 21, 1960, which dealt with this identical question. This office wishes to acknowledge the assistance of the originator of this request, Mr. Walter R. Kegel, in performing research on this question and preparing a memorandum for our use.

Opinion No. 60-171, supra, held the salary in question was four thousand six hundred dollars (\$ 4,600.00) per year. This result was reached solely through application of a well-known rule of statutory construction that where the words and figures in legislation conflict, the words shall be deemed to control. This rule was not applied as a rule of law, absolutely requiring the indicated result, but as a rule of construction to determine legislative intent. It is the intention of the legislature that we seek, and, once found, our inquiry is at an end. If there is other strong evidence of legislative intent, it is unnecessary to apply the rule of construction employed in Opinion No. 60-171, supra, for that rule is only helpful where there is an absence of legislative intent.

This question arises as a result of a conflict between the words and figures used in Chapter 262, Laws of 1959, Section 4 (A) (3), which deals with the salary of deputy county assessors in first class counties having an assessed valuation of more than twenty-seven million dollars (\$ 27,000,000). The words express the salary as four thousand six hundred dollars; the figures express the salary as \$ 4,000.00.

A review of Chapter 262, Laws of 1959, indicates that, for each class of county, with the exception of the counties in question, the salaries of the deputies of the county treasurer, county assessor, and county clerk are identical. It is only in first class counties having an assessed valuation of more than twenty-seven million dollars (\$ 27,000,000) that any disparity occurs. This striking fact is illustrated by the following table:

CLASSIFICATION	DEPUTY OF COUNTY TREASURER	DEPUTY ASSESSOR	DEPUTY CLERK
Class A	\$ 7392	\$ 7392	\$ 7392
Class B	5280	5280	5280
Class C	5280	5280	5280
First Class over \$ 27,000,000	4000	4600	4000
First Class under \$ 27,000,000	3696	3696	3696
Second Class	2970	2970	2970
Third Class	2530	2530	2530
Fourth Class	2112	2112	2112
Fifth Class	1650	1650	1650

{*632} This uniformity indicates that the legislature intended to provide the same salary, within each class of county, for the offices of deputy county treasurer, deputy county assessor, and deputy county clerk. Such strong evidence compels us to hold that such was, in fact, the legislative intent, and we find it unnecessary to resort to rules of construction to determine that intent.

We are, therefore, of opinion that the salary of a deputy county assessor in first class counties having an assessed valuation of more than twenty-seven million dollars (\$ 27,000,000), but less than forty-five million dollars (\$ 45,000,000), is four thousand dollars (\$ 4,000.00) per year.

Attorney General's Opinion No. 60-171, September 21, 1960, is expressly overruled.

By: Norman S. Thayer

Assistant Attorney General