

Opinion No. 16-1721

January 25, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Honorable Alvan N. White, Superintendent of Public Instruction, Santa Fe, New Mexico.

The sums to be paid by the various counties as part of the compensation of the state director of industrial education.

OPINION

{*294} I have before me your letter of the 21st instant, to which we have been giving considerable attention since it was received on Saturday. The matter about which you ask is as to how the sums to be paid by the various counties as part of the compensation of the state director of industrial education shall be apportioned. As you say in your letter, in Section 4820 of the new codification, there is a provision that he is to be paid one thousand dollars by the state, to which shall be added certain sums paid by the various counties, thirty dollars being chargeable to counties of class A, twenty-five dollars to counties of class B, and twenty dollars to counties of classes C, D and E. That section was originally adopted in 1912. As you say, it was, no doubt, the intention of the legislature that the sums mentioned should be paid by the counties under the classification fixed by statute at the time of the passage of the act in 1912. The only classification by letters, which was theretofore in existence, is that provided by Chapter 60 of the Laws of 1905, which made it {*295} the duty of the traveling auditor annually to classify the counties before the end of December. Such classification had, undoubtedly, been made in December, 1910, and possibly in December, 1911, although at that time the first state election had been held and the then traveling auditor may have taken the view that it was unnecessary to make that classification.

My opinion is that the nearest we can come to accomplishing what was intended by the legislature will be to take the last classification made by the traveling auditor, whether in December, 1910, or in December, 1911, and apportion the various amounts to the different counties in accordance with that classification.

I am quite clear that there is no way that we can make use of the classification provided for in Chapter 12 of the Laws of 1915, as that classification is to be made only for the purposes of that act, and the main purpose of that act was to fix the salaries of county officers, and it cannot be held to have any relation to the compensation of the state director of industrial education.

Since the adoption of the codification there appears to be no longer any authority for the traveling auditor to make any classification of the counties for any purpose.