

Opinion No. 31-207

July 15, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. W. E. Lipsey, Chairman, Board of County Commissioners, Mogollon, New Mexico.

{*84} Relating to your letter of July 9th, 1931, we doubt that the County Commissioners can dispense with budgeting for the salaries of deputy county officers, where such offices are created by law.

Chapter 12 of the 1915 Session Laws as amended provided for a salary of \$ 900.00 each for deputy treasurers and assessors, and Sec. 33-3220 of the 1929 Code is as follows:

"33-3220. TAX LEVY FOR SALARIES AND EXPENSES. That the boards of county commissioners shall hereafter levy a tax sufficient to pay the salaries and expenses of county officers whose emoluments and expenses have heretofore been paid out of the salary fund as created by Chapter 12 of the 1915 Session Laws of New Mexico."

It might be very poor policy to dispense in any event, with proper deputies for the offices mentioned, for reason that illness, vacations and other unavoidable absences by the officers might hamper the orderly business of the office.

On the other hand, if the Board feels that because of little business in the offices, the expenditure of funds for deputies is a useless one, they might refuse to budget for same, putting the question up to the courts in event Mandamus is brought to compel such a budget.