

**Opinion No. 56-6448**

May 25, 1956

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. John Humphrey, Jr., Assistant District Attorney, Tenth Judicial District, Fort Sumner, New Mexico

You have asked the opinion of this office as to whether or not the County Commissioners of De Baca County can be forced to hire and budget for deputies for the three offices of County Clerk, Treasurer and Assessor.

You state that in De Baca County the revenues are short of meeting the expenses and that for the last three fiscal years two deputies have worked among the three offices. During this period of time the County Commission has only been budgeting for two deputies to serve the three offices.

I enclose a copy of Attorney General Opinion No. 1649, dated May 24, 1937, which is enlightening on the subject.

Section 15-43-4 (2), N.M.S.A., 1953 Compilation, provides specifically that the annual salaries of the officers mentioned in your inquiry shall be \$ 2,300.00 per year. There is no authority therein for the County Commission to determine if deputies are to be employed and there is also no discretion pertaining to the salaries to be paid. Of course, this does not mean that the County Clerk, Treasurer or Assessor is obligated to hire a deputy or deputies. There is merely the provision for the salary in event deputies are hired at the discretion of the proper county official.

The answer to your inquiry then is that the County Commission should budget for deputies for each office if the County Clerk, Treasurer and Assessor each want a deputy or deputies.

It should be borne in mind by the last above mentioned county officers that §§ 11-6-6 through 11-6-8, N.M.S.A., 1953 Compilation, (The Bateman Act) provide for a proration of salaries in event there are insufficient collections of money to pay same as provided by law for any current year.

By J. A. Smith

Assistant Attorney General