

Opinion No. 56-6530

October 15, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Richard F. Rowley, District Attorney, Ninth Judicial District, Clovis, New Mexico

You have requested an opinion of this office as to the legality of a member of the New Mexico Legislature being employed as a deputy county assessor.

Art. IV, § 28, New Mexico Constitution, provides as follows:

"Appointment to office -- Contracts. No member of the legislature shall, during the term for which he was elected, be appointed to any civil office in the state, nor shall he within one year thereafter be appointed to any civil office created, or the emoluments of which were increased during such term; nor shall any member of the legislature during the term for which he was elected nor within one year thereafter, be interested directly or indirectly in any contract with the state or any municipality thereof, which was authorized by any law passed during such term."

It would appear that the office of deputy county assessor is not a civil office. (State ex rel Gibson vs. Fernandez, 40 N.M. 288, 58 P. 2d 1187.) It appears also that the prohibition in the latter part of the section applies only to state and municipalities and not to counties.

§ 2-1-4, N.M.S.A., prohibits any legislator from contracting or receiving compensation for services performed as an official of the state, but does not prohibit employment by or receipt of compensation from the county.

It is, therefore, our opinion that the employment referred to is legal.

By Walter R. Kegel

Assistant Attorney General