

Opinion No. 37-1707

July 9, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. Benjamin D. Luchini Chief Tax Commissioner Santa Fe, New Mexico

{*141} By your letter of July 7th you have again presented to this office the matter of the payment of salaries to the officers of Chavez County during the term beginning January 1, 1935, and ending December 31, 1936.

The facts are set forth in your letter and it is not necessary to repeat same herein

I have, since your discussions relative to this matter, given same serious consideration but I am unable to convince myself that the request of the Chavez County officials should be granted.

I have studied the cases of State vs. Board of County Commissioners of Sierra County, 29 N.M. 209, and Love vs. Dunaway, 28 N.M. 562, and feel that the holdings in these two cases are decisive of this question.

It is my opinion that under the law the action of the State Auditor in certifying the classification of a county during the month of January is purely ministerial and he is guided in such certification by the valuation of the county as finally fixed for the preceding year.

The salaries are fixed as is the classification for the following two years at the time the valuations are finally fixed and automatically the officers taking office become entitled to salaries as provided by law for the counties of the particular class in which such counties fall.