

**OPINION
55-106**

July 21, 1955 (OPINION)

SCHOOLS

RE: Deputy Superintendents - Salary

We have received your letter of July 15, 1955, requesting an opinion from this office on the following question:

Section 15-2206 of the 1953 Supplement provides that the county superintendent of schools of the various counties in this state is to have a deputy and such deputy shall receive a salary equal to eighty percent of the county superintendent's salary. Chapter 110 of the 1955 Session Laws amends and reenacts subsection 2 of section 11-1010 of the 1943 code and repeals subsection 4 of section 11-1010 of the 1943 code and repeals subsection f of section 11-1010 of the 1943 code and section 11-10102 of the 1953 Supplement, and provides a salary increase for county superintendents and makes such salary increase retroactive to January 1, 1955.

Under the above circumstances you ask whether a deputy superintendent is entitled to this retroactive pay on the basis of eighty percent of the county superintendent's salary.

We are certain that if section 15-2206 of the 1953 Supplement can be made applicable to chapter 110 of the 1955 Session Laws, it would operate retroactively.

Generally speaking, the adoption of a statute by reference is construed as an adoption of the law as it existed at the time the adopting statute was passed and therefore is not affected by any subsequent modification of the statute adopted unless an intention to the contrary is clearly manifested. (See C.J.S., 82, page 847).

There is, however, a well established exception to this rule. "Where the reference in an adopting statute is to the law generally which governs the particular subject, and not to any specific statute or part thereof; in such case the reference will be held to include the law as it stands at the time it is sought to be applied, with all the changes made from time to time, at least as far as the changes are consistent with purpose of the adopting statute." (See C.J.S. 82, page 848).

We believe the present case falls within the exception above cited, and hold that a deputy superintendent of schools is entitled to a salary based on eighty percent of the salary provided for county superintendents in chapter 110 of the 1955 Session Laws, and that the retroactive feature of that law applies to such deputies.

LESLIE R. BURGUM

Attorney General