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Opinion No. 65-6-L
R-58
December 28, 1964

REQUESTED BY: LLOYD FERNANDEZ, Greenlee County Attorney

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: If the County Assessor appoints a deputy who is the sister of a member of the Board of Supervisors, is such appointment improper under our Anti-Nepotism Statute, A.R.S. § 38-481?

ANSWER: Yes.

Arizona Revised Statutes, Section 11-409 permits the County Assessor to appoint Deputies, but only with the consent of the County Board of Supervisors, at the salary fixed by them.

In the context of the question, we have the Board of Supervisors determining whether or not a sister of one of them may be employed by the County Assessor as a deputy and further determining the salary which she will be paid. This would be a proper transaction if the Legislature had not enacted the following statute:

§ 38-481 Employment of relatives; penalty;
definition

"A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the

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appointment of a person related to him within the degree provided by this section.

"B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a misdemeanor punishable by a fine of not less than one hundred nor more than one thousand dollars.

"C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, public school trustees, officers and boards or managers of the university and its several branches, and state colleges."

This statute, in our opinion, clearly prohibits such employment. This opinion is reinforced by A.R.S. § 11-251 (1) where the Board of Supervisors is charged with the positive duty to supervise the official conduct of all county officers charged with assessment of taxes. The practical effect of the foregoing statutes is to make such deputy an employee of the Board and within the prohibition of the statute.

Respectfully submitted,

Robert W. Pickrell
ROBERT W. PICKRELL *by wee*
The Attorney General

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