

16 December 1946

Mr. Ronald J. Ellis
County Attorney of Pinal County
Florence, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Ellis:

We have your letter of 21 September 1946, in which you set forth the following problem:

Pinal County proposes to set up an apprentice system for mechanics in its highway department, paying the veterans-apprentices a graduated wage, beginning with \$100.00 per month, this sum to be added to the G. I. education allowance of \$60.00 for single veterans and \$90.00 for married veterans. In view of the possible legal implications, you asked for an opinion on the following question:

"Would this course of training subject the County to the provisions of the minimum wage law as set forth in Section 56-101, et seq? In other words, would the trainees have a cause of action against the County, under this act, to recover the difference between the pay set by the County and the amount set by the State Highway Commission pursuant to the above mentioned statute as a minimum wage either as an unskilled worker, or as a mechanic's helper, as might be determined by the Court or a Jury? Furthermore, we would appreciate your opinion, as to whether or not the Board of Supervisors would be liable to criminal prosecution under the provisions of 56-111?"

The applicable portion of Section 56-101, A.C.A.1939, reads as follows:

"Hours of labor and wages on public works.

* * * * *

(b) Not less than the minimum per diem wage fixed by the Arizona state highway

commission for manual or mechanical labor performed for said commission, or for contractors performing work under contract with said commission, shall be paid to any person doing manual or mechanical labor, employed by or on behalf of the state or any political subdivision thereof. The commission shall determine and publish such minimum per diem wage not later than April 15 of each odd-numbered year.

* * * * *

In our opinion the County would violate Section 56-101, supra, if the wage it pays falls below the Highway Commission's standard set forth in the section. Federal allowances to the veteran for education expenses may no more be added to bring his income up to the minimum than could, say, disability compensation a veteran may be drawing. From any view, the County is still paying a "wage" which must meet the statute's minimum in and of itself.

In the case of such deficiency, the county officers would be civilly liable (City of Glendale v. Coquat, 46 Ariz. 478), as well as criminally liable under Section 56-111 (City of Glendale v. Dixon, 51 Ariz. 206).

We have no available information on the State Highway Department's program for apprentices which you mentioned, and suggest that you write the Assistant Attorney General assigned to the Highway Department, Mr. R. G. Langmade, in that regard.

Hoping this answers your questions, we remain,

Very truly yours,

JOHN L. SULLIVAN, Attorney General

WILLIAM P. MAHONEY, Jr.,
Assistant Attorney General