

Assessors — Traveling Expenses of Assessor and His Deputies—Limitation of Expenses for One Month.

Section 2038 of the Revised Codes of 1921 construed to limit the actual and necessary traveling expenses of an Assessor and his deputies to \$50 in any one month.

Dean King, Esq.,
County Attorney,
Kalispell, Montana.

My dear Mr. King:

You have requested my opinion as to the interpretation to be given to Section 2038, Revised Codes of 1921. This section reads as follows:

“The assessor and his deputies in each county in this state shall be paid the actual and necessary traveling expenses by them incurred, not to exceed fifty dollars in any one month, during the months of March, April, May, and June of each year, while in the performance of official duty, upon presenting and filing a verified claim thereof, supported by vouchers, for each item of expense, to the board of county commissioners of their respective county.”

A former Attorney General held that this section meant that the sum of \$50 mentioned was the total sum to be allowed to the Assessor and his deputies in any one month, and that the traveling expenses in any one month must not exceed that sum. (5 Opinions of Attorney General, 117.)

With the above opinion I am fully in accord.

Your letter, however, presents a different statement of facts than that calling for the opinion above mentioned. Your Assessor and his deputies, during the month of March, incurred an expense account of about \$140, but he will be able to complete his 1922 assessment without incurring a total expense for the four months mentioned in the statute to exceed \$200.

Were it not for the fact that the Legislature saw fit to use the words “not to exceed fifty dollars in any one month, during the months of March, April, May, and June of each year,” we might easily conclude that the intent was to keep this traveling expense within the \$200 limit for the said four months. However, the law specifically limits it to \$50 in any one month, and the only conclusion to be

drawn is that, when the Assessor and his deputies exceed that amount in any one month, the excess cannot be paid. The language is too clear to permit of any other interpretation.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.