

County Commissioners, Extra Per Diem.

County Commissioners have no authority to make a general appointment of one of their members as a purchasing agent, but may expressly authorize him to purchase particular designated supplies or articles for or on behalf of the Board.

Helena, Montana, April 29, 1907.

Hon. Thomas Nelson Marlowe,
County Attorney,
Missoula, Montana.

Dear Sir:—

Your letter of the 20th inst., giving additional information as to the appointment and duties of what you designate "Purchasing Agent" of your county, received.

From this letter it appears that one member of the Board of County Commissioners has been appointed to attend to the purchasing of supplies for the poor people who are at the County Farm; the supplies for different county officers and for the Road Supervisors, and things of that kind. The question you ask is whether a member of the Board of County Commissioners can be allowed extra per diem for performing such duties.

Sections 4217 and 4424 of the Political Code make the County Clerk the clerk of the Board of County Commissioners, and the usual custom in counties, other than those having a county auditor, is for the County Clerk, as part of his official duties as clerk of the Board, to purchase supplies for the county officers, etc. whenever same has been authorized by the Board.

Of course the Board of County Commissioners could delegate authority to some member to do some particular thing which the Board had already acted upon as a Board. As was stated to you in our opinion of April 18th, "Work performed by one member of the Board, and for which he can charge per diem, can only be in carrying out some matter of which the Board in regular session, or duly called special session, has acted upon as a Board, and then delegated authority to a member of the Board to supervise or carry out such order."

We are of the opinion that the County Commissioners would have no authority to appoint one of their members a general purchasing agent with discretion to act upon matters which had not been considered by the Board, an express authority given to such member to act thereon. They may, however, by order spread upon the minutes, delegate authority to one of their members to purchase a particular supply of provisions for the use of the poor or the particular line of supplies or merchandise for the use of county officers or road supervisors, and his authority would not extend beyond that expressly conferred upon him by the Board, and not give him the right to act upon his own motion and whenever he so desired, and then put in bills to the county for extra time.

Yours very truly,
ALBERT J. GALEN,
Attorney General.