

Board of County Commissioners, Members of, Entitled to What Mileage. Mileage, Members of Board of County Commissioners Entitled to What. Per Diem, of Members of Board of County Commissioners.

Under the provisions of Sec. 3194, Revised Codes, the mileage allowed to members of the board of county commissioners in traveling to and from the sessions of the board, is ten cents per mile.

Under the provisions of Sec. 2893 of the Revised Codes, the per diem allowed members of the board of county commissioners is eight dollars per day, and such per diem is to be computed from the time such member appear "on the session of the Board."

January 30th, 1913.

Hon. Board of County Commissioners,

Miles City, Montana.

Gentlemen:

I am in receipt of your letter from Hon. Charles Daly, member of your board, submitting the questions:

"I. What mileage should be allowed to members of the board of county commissioners in traveling to and from their places of residences in attendance on sessions of the board?"

"II. Should the per diem allowed to the board be computed from the time the member leaves home or only during his attendance on the session of the board?"

There is apparently a little conflict between provisions of Sec. 2893 and 3194, relating to mileage. The former section fixes the mileage at 10 cents and the latter at 15 cents per mile. However, in a later act, that of March 7th, 1895, the Legislature fixes the mileage at 10 cents per mile, hence 10 cents is the mileage that should be allowed.

2. Sec. 2893 fixes the per diem of members of the board at eight dollars per day and the mileage allowed at 10 cents per mile. This section is evidently copied from the provisions of Sec. 755, of the compiled statutes of 1887, and expressly limits the per diem to "attendance on the session of the board."

Sec. 3194 of the Revised Codes appears to have been inserted by the original code commission and there is apparently no record that such section was ever enacted by the legislature, except by being incorporated in the codes which were adopted in 1895. By its provisions, it does not limit the per diem allowance in any manner but simply provides that commissioners shall each receive eight dollars per day. If the provisions of this section are to govern, then there is no limitation whatsoever that each member of the board could not draw his salary of eight dollars per day for every day of the year, and if the per diem allowance is to be computed from the time the member leaves his home to attend a meeting of the board it would

also be computed until he should reach home after the board had adjourned its meeting. There is no law fixing or prescribing how many miles shall constitute a days travel nor what time shall be allowed any official in traveling from his home to the place of public business, hence each member of the board could fix his own time. What would be a two days trip for one member might be considered a six days trip for some other. A mileage granted to public officials is for the purpose of paying the expenses from their home to the place where the law requires them to transact public business. The per diem is for the purpose of compensating them for the time spent in transacting such public business. I am of the opinion that the provisions of Sec. 2893 are controlling and hence that a member of the board of county commissioners is not entitled to have his per diem allowance computed from the time he leaves home to attend a meeting of the board, but should be computed from the time of his appearance "on the session of the board."

Very truly yours,

D. M. KELLY,
Attorney General.