

**County Officers, Salaries of. Salaries, of County Officers.  
Mileage, Fixed by Law.**

In this state salaries and mileage of county officers are fixed by law and none can be claimed except as authorized by statute. County officers may claim salary only as of the date they qualify and assume the duties of office.

February 16th, 1914.

Hon. C. L. Wood,  
County Commissioner,  
Alzada, Montana.

Dear Sir:

I am in receipt of your letter of the 6th instant, as follows:

"As county commissioner of Fallon County, I would like to ask you a few more questions, as the members of the board disagreed at the January meeting in regard to mileage of salaried officers and the time their wages started:

The county was created on December 8th and most of the officers claimed salaries from that time, also one deputy county clerk claimed salary from the 8th. The commissioners met and organized on December 15th, and the county clerk asked for one deputy on the 16th, which was allowed, but he, the deputy, claimed wages from and including the 9th, also

this deputy and several of the salaried officers claimed mileage coming to the county seat to start on the duties of their offices. Also three of the newly elected officers went to Miles City as soon as they knew they were elected and claimed mileage for that trip."

In all instances compensation for official acts is regulated by statute and any county officer is entitled to charge for official services only the compensation which the law attaches to the office. The general rule is stated as follows:

"Where the salary or compensation of a county official is definitely fixed by law, it is generally held that such sum is intended to include his entire official remuneration, and to preclude extra charges for any services whatsoever, unless it is clear that the statute contemplated and intended additional compensation for certain extra services."

11 Cyc. 429.

Johnson v. Lewis and Clark Co., 2 Mont. 159.

Ratmond v. Commissioners, 5 Mont. 103.

Sears v. Gallatin Co., 20 Mont. 462.

Wood v. Lewis and Clark, 24 Mont. 355.

Scharrenbroich v. Lewis and Clark Co., 23 Mont. 250.

Wood vs. Lewis and Clark Co., 24 Mont. 335.

In the case last cited the rule is laid down to the effect that:

"What is not by the law imposed as expenses upon a county is not a charge against it."

County Commissioners are entitled to receive ten cents per mile for the distance necessarily traveled in going to and returning from the county seat and their places of residence.

Revised Codes, 1907, 2893.

They are also entitled to actual traveling expenses whilst engaged in the inspection of roads and bridges.

Sec. 13, Chap. 72, Session Laws, Thirteenth Legislative Assembly.

Aside from these two statutory provisions, there is no authority of law for the commissioners to charge either mileage or expenses for public services performed by them. There is no law in force whereby a public officer may claim mileage in going to or returning from his home, save the section above referred to relating to county commissioners. All public officers take office cum onere; that is to say, when they assume the duties of office they do so subject to the burdens incident thereto.

Turpin v. Board, 7 Ind. 172.

"In this state all county officers must keep their office at the county seat."

Revised Codes, 1907, 2967.

But none are entitled to mileage in going to the county seat to take up the duties of their offices. Under the law, county officers receive annual salaries as provided by Chap. 112 of the Session Laws of the Thirteenth Legislative Assembly. The time for the computation

of the salaries fixed by law begins from the time such officers qualify and take up their public duties and not before. Hence, under the facts as disclosed by your letter, the matters of which you complain are clearly illegal, and not proper charges against the county and should be disallowed.

Yours very truly,

D. M. KELLY,  
Attorney General.