

Mileage, Charges for.

The official stenographer should present to the board of county commissioners of the counties of his district his charges for mileage of the same, which should be audited and allowed the same as other county charges.

March 20th, 1913.

Hon. Victor R. Griggs,
County Attorney,
Havre, Montana.

Dear Sir:

I beg to acknowledge receipt of your favor under date of the 15th instant, requesting my opinion upon the following question, to-wit: whether the claim of an official stenographer of the district court for mileage must be presented by him to the boards of county commissioners of the counties comprising the judicial district for allowance by the boards, before the same can be paid by the respective counties. The statute requires that:

"County charges of every description must be presented to the board of county commissioners to be audited."

Section 3198.

Other provisions of the statute prescribe the form in which these charges against the county shall be presented, and the rights of the claimant and of the tax-payers respectively to appeal from the decision of the board.

Sections 2944, 2945, 2946 and 2947 Revised Codes.

The county clerk is authorized by statute to

"draw warrants on the county treasurer in favor of all persons entitled thereto in payment of all claims and demands chargeable against the county, which have been legally examined and allowed and ordered paid by the board of county commissioners, and also for all debts and demands against the county when the amounts are fixed by law and which are not directed to be audited by some other person or tribunal."

Sec. 3045, Subdivision 3.

The mileage which may be due the official stenographer of the district court in any particular month is not an amount "fixed by law," and in my opinion is not a claim or demand for which the county clerk may draw his warrant without the same being allowed and ordered paid by the board of county commissioners. The treasurer is directed by the statute to

"disburse the county moneys only on county warrants issued by the county clerk, based on orders of the board of county commissioners or as otherwise provided by law."

Sec. 2986, Subdivision 5.

You will observe that Chapter 80 of the Laws of 1909 merely declares that the mileage is to be apportioned and payable in the same way as the salary which is "to be paid by each county." This does not, in my opinion, indicate that the present case is one of the cases "otherwise provided by law" where the treasurer may disburse the county moneys without county warrants based on the order of the board of county commissioners.

You are therefore advised that, in my opinion, the official stenographer should present to each of the boards of county commissioners of the counties comprising the judicial districts, the portion of his mileage which is chargeable against that particular county, and that the same should not be paid by the county treasurer until it has been allowed by the board of county commissioners, and the warrant of the county clerk therefor duly and regularly drawn. This conclusion is in harmony with an opinion rendered by Attorney General Galen in 1905 upon a somewhat similar question.

Opinions Attorney General 1905-06, p. 111.

Very truly yours,

D. M. KELLY,
Attorney General.