

**Automobile Expense—Officers—Public Officers—Expenses
—Traveling Expenses—County Commissioners—Mileage.**

Boards of county commissioners are authorized to pass upon bills presented against the county by public officers and to fix the amount for the use of privately owned automobiles at not to exceed the 12½c per mile provided by chapter 80, laws 1923,

E. J. Cummins, Esq.,
County Attorney,
Deer Lodge, Montana.

December 2, 1924.

My dear Mr. Cummins:

You have requested an opinion on the following question:

“If a county officer uses his own car in the performance of an official duty, where traveling expenses are allowed by law, is he entitled to 12½c per mile for each mile traveled, or is it within the discretion of the board of county commissioners to give him 10 to 12½ cents per mile for his expenses?”

Replying generally to your inquiry, I will say that the act in question (chapter 80, laws of 1923) expressly says that the officer “shall receive *not to exceed* twelve and one-half cents per mile for each mile necessarily traveled, unless otherwise specifically provided by law.”

The words "not to exceed" clearly indicate a legislative intent that the 12½c specified shall be the maximum and not the minimum charge.

Under the general duties of boards of county commissioners, as outlined in subdivisions 12 and 18 of section 4465, Rev. Codes 1921, and said chapter 80, laws of 1923, making the members of the "lawful approving board" liable for any claim they may allow in excess of the 12½ cents per mile, it is my opinion that it is the duty of boards of county commissioners to pass upon the reasonableness of bills presented against the county for traveling expenses of public officials coming within the said chapter 80, laws of 1923, and to fix the allowance for traveling expenses in their discretion and at not to exceed the figure fixed by the above statute.

Very truly yours,

L. A. FOOT,
Attorney General.