

County Agent — County Nurse — Traveling Expenses — Meetings—Conventions—Public Officers.

Neither a county agent nor a county nurse is a public officer. Trips of county agent to state fair or to extension service gathering are not attendance at a gathering of public officers and expenses of same are not authorized by law. County nurse is not entitled to expenses for attending a gathering of nurses.

Mr. M. R. Wood,
Chairman,
Board of County Commissioners,
Kalispell, Montana.

October 15, 1931.

My dear Mr. Wood:

You have requested my opinion regarding the construction of chapter 86 of the laws of 1931 with respect to the following sets of fact:

“First. Our county agent attended the recent Montana State Fair and has submitted his mileage bill in amount of \$9.90 for such trip. Is this a legal charge against the county?”

“Second. During the winter and spring he will be ordered by the State Extension Service to attend a state meeting of county agents in Bozeman and a district meeting in Missoula. If he goes, will his traveling expenses be within the law?”

“Third. Our county nurse was ordered by some district association, of which she is a member, to go to Eureka in Lincoln county for district conference of nurses. She has put in her mileage for this trip and we want to know whether or not this is a legal charge?”

Chapter 86 of the laws of 1931 amended section 443 R.C.M. 1921 as formerly amended and provides:

“Hereafter no state, county, city or school district officer or employee of the state, or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting or other gathering of **public officers**, save and except for attendance upon such convention, meeting or other gatherings as **said officers** may by virtue of his office be required by law to attend, * * *.”

Section 2506 R.C.M. 1921 authorizes the county commissioners, in their discretion, to employ a registered nurse for duty under the Child Welfare Division.

Section 2507 R.C.M. 1921 authorizes the state superintendent of public instruction and the secretary of the state board of health to formulate rules and regulations governing the work of school, county and public health nurses, which rules and regulations, when regularly passed by the state board of health, shall invest the said state board of health with full power of supervision and regulation of said school and county and public health nurses.

Just what rules and regulations governing the work of nurses have been promulgated under said section 2507 by said officers designated therein I am not advised.

The county agent is provided for under section 4487 R.C.M. 1921. This section, after providing for appropriation or levy by the county commissioners for carrying on extension work in agriculture, further provides that the amount of such appropriation in any county, its method of expenditure, responsibility for the direction of the work, and procedure of appointing agents, the compensation and conditions of service of such agents shall be covered in memoranda of agreements between the county commissioners, the county farm bureau, and the Montana state college of agriculture and mechanic arts.

Your letter does not state whether such memoranda of agreements has been entered into as are provided for in this section, and, if so, who has direction of the work and what is the condition of service.

Neither a county agent nor county nurse has any of the earmarks of public officers. If they are not public officers they must be merely public employees under the direction of such officer or persons. While employees are designated in the first part of section 1 of chapter 86 of the laws of 1931 as among those who may attend a convention, meeting or other gathering of public officers, they are not referred to in the latter part of this section where only officers who may by virtue of their offices be required by law to attend such convention, meeting, etc., are spoken of as entitled to traveling and other expenses. Furthermore, it is only a convention, meeting or other gathering of public officers where attendance is authorized and to which traveling and other expenses may be paid. In this case neither the state fair, the state extension service in Bozeman, nor the meeting that the county nurse is ordered to attend is a meeting, convention or gathering of public officers.

It is therefore my opinion that in neither of the three cases mentioned by you is the party entitled to receive traveling or other expenses.

Very truly yours,

L. A. FOOT,

Attorney General.