

Opinion No. 306.**County Commissioners—Welfare Board—Mileage—Officers.**

HELD: County commissioners are entitled to ten cents per mile for distance necessarily traveled in attending meetings of Board of County Commissioners, or of County Welfare Board.

2. County Commissioners are entitled to seven cents per mile for distance necessarily traveled in making road inspections or in doing similar work.

July 26, 1938.

Mr. E. P. Conwell
County Attorney
Red Lodge, Montana

My dear Mr. Conwell:

I am in receipt of your recent inquiry asking my opinion as to what mileage the county commissioners are entitled to while attending meetings and making road inspections.

Sections 4464 and 4884 provide:

“Compensation of members of board. Each member of the board of county commissioners is entitled to eight dollars per day for each day’s attendance on the sessions of the board, and ten cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence, and no other compensation must be allowed.”

Section 4884:

“Mileage of all officers. Members of the legislative assembly, state officers, county officers, township officers, jurors, witnesses, and all other persons, except sheriffs, who may be entitled to collect mileage at a rate of not to exceed seven cents (7¢) per

mile for the distance actually traveled, and no more.”

Said sections are in conflict, in respect to the mileage the members of the board of county commissioners or public welfare may receive for distance necessarily traveled in attending meetings of said boards, unless they refer to different classes of officers. The history of both of these sections is quite old and each of them has been amended and re-enacted and continuously carried forward in their respective chapters until the present time. Section 4464, being a special statute dealing exclusively with county commissioners, is carried forth in the chapter relating exclusively to county commissioners. Section 4884, being a general statute dealing with other officers, is carried forth in a separate chapter relating to other officers. Special statutes take precedence over general statutes in event of a conflict. This rule is not altered even though the general statute be enacted subsequent to the special statute. Section 4464 applies only to the mileage of the board of county commissioners while traveling to the county seat to attend meetings of the board; it has no application to the mileage of the members of the board while inspecting roads or performing similar duties. Section 4464 allows the members of said board ten cents (10¢) per mile for distance traveled in attending board meetings, and no other compensation than their per diem. Section 4884 allows the board members seven cents (7¢) per mile for mileage upon road inspections and similar duties.

When the board of county commissioners is sitting as a board of public welfare (Part I, Section IX, subdivision (b), Chapter 82, Laws of 1937), the members are entitled to the same compensation and mileage as when sitting as a board of county commissioners.

Therefore, it is my opinion that the board of county commissioners, when sitting as either a board of county commissioners or welfare board, is entitled to ten cents (10¢) for mileage for the distance necessarily traveled to and fro to attend said board meetings, and when said board of county commissioners is inspecting roads or performing similar duties it is allowed seven cents (7¢) for mileage.