

No. 32

**COUNTY COMMISSIONERS—COUNTY WELFARE
BOARD—COMPENSATION—COUNTY GENERAL
FUND—MILEAGE**

Held: Compensation and mileage of Board of County Commissioners and as County Welfare Board to be paid from County General Fund. Necessary mileage to attend said meetings to and returning from the county seat and his residence shall be allowed in the sound discretion of the Board.

February 21, 1941.

Mr. H. E. Carnue, Chairman
Board of County Commissioners
Petroleum County
Winnett, Montana

Dear Mr. Carneau:

You have submitted the following:

"Where a Board of County Commissioners meets in regular session on the first Monday of each month as a Board of County Commissioners to consider and transact regular county business, and at the close of the day's session adjourns to meet the following day as the County Welfare Board to consider and transact business relating thereto, and where the Commissioners return home at the close of the regular session and return to the county seat for the session as the County Welfare Board, may such Commissioners lawfully charge mileage from their home to the county seat for both sessions and, if so, to what fund should such expense be charged?"

In answering your inquiry, we turn to Section 4464, Revised Codes of Montana, 1935, as amended by Chapter 176 of the Laws of 1939, which reads as follows:

"4464. **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."

Therein is set forth the compensation of the members of the Board, the per diem and mileage when in session on strictly county business as differentiated from public welfare business.

Next to be examined is Chapter 129 of the Laws of 1939, Section 4 (b), which reads as follows:

"(b) The Board of County Commissioners, ex-officio, shall be the County Welfare Board and is hereby authorized to devote such additional time for public welfare matters as may be found necessary. The members of the County Welfare Board shall receive the same compensation for their services and the same mileage when acting as the County Board of Public Welfare as they receive when acting as the Board of County Commissioners and shall be limited as to meetings as now provided by law, and the compensation and mileage of the members of the Board shall be paid from county funds. They may transact business as a Board of County Commissioners and as a County Welfare Board on the same day, and in such cases they shall be paid as a Board of County Commissioners, but shall in no case receive compensation for more than one day's work for all services performed on the same calendar day."

It will be observed from the foregoing that a Board of County Commissioners may transact business as a Board of County Commissioners

and as a County Welfare Board on the same day, and when so acting shall be paid as a Board of County Commissioners. This amendment was no doubt inserted by the Legislature for the purpose of facilitating the work of Boards of County Commissioners, so that they could expedite their work and limit the time required for their meetings.

It will also be noted that the last above quoted amendment provides that the compensation and mileage of the County Welfare Board shall be the same as when acting as the Board of County Commissioners, and such compensation and mileage shall be paid from county funds.

Section 4868, Revised Codes of Montana, 1935, provides:

"The salaries of the several county officers . . . must be paid monthly out of the general fund of the county . . ."

Therefore, it is my opinion, that regardless of whether the Board of County Commissioners transacts business as a County Welfare Board or as the Board of County Commissioners, the compensation and mileage of members shall be paid from the county general fund. As to the last part of your question relating to mileage allowance, it appears the Legislature left this matter to the sound discretion of the Board to plan its sessions in the most economical and efficient manner. In some counties, it may be determined to set aside certain days for the Board to transact business as a Board of County Commissioners and then to adjourn to a time definite when the board will transact business as the County Welfare Board. In such instances, when the members of the Board necessarily travel from their respective residences to and from the county seat for the day or days in session as the County Welfare Board, other than their regular session as Boards of County Commissioners, they are entitled to mileage at the same rate as for such travel for sessions as County Commissioners. . .

Sincerely yours,

JOHN W. BONNER
Attorney General