

No. 72

OFFICERS, Definitions of Assistant—
OFFICERS, Expenses of

Held: Rate clerk of Railroad Commission is not an "assistant" within the meaning of the term as employed in Chapter 92 of the Laws of 1941.

April 5, 1941.

Board of Railroad Commissioners
State Capitol
Helena, Montana

Gentlemen:

You submit the following:

"The question arises whether under the provisions of Chapter 92, Laws of 1941, amending Section 459.1, R. C. M., 1935, . . . the duly appointed rate clerk of the Board of Railroad Commissioners, having been appointed as authorized by Section 3786 (id.), is limited to the expenditure of \$4.00 for expenses while out of the State."

The portion of Section 459.1, as amended by Chapter 92 of the Laws of 1941, pertinent to the question you present states:

" . . . The foregoing limitations of expenses shall not apply to elective officers, their deputies or assistants specifically provided by law, while engaged on official State business outside of the State of Montana, and in such case, the Board of Examiners may allow such actual expenses as in their judgment are reasonable in amount not to exceed eight dollars (\$8.00) per day."

The Legislature has used the words, "assistants specifically provided by law," and clearly limits the word "assistants" (to elective officers) to persons so designated by statute.

The rate clerk employed by the Board of Railroad Commissioners is not designated as an "assistant" by statute, and it follows he must be limited to the expenditure of \$4.00 per day for expenses while out of the State.

Sincerely yours,

JOHN W. BONNER,
Attorney General