

No. 81

BOARD OF RAILROAD COMMISSIONERS—OIL CONSERVATION BOARD—OIL, Regulation and Production of—STATE EMPLOYEES, Mileage and Expenses of

Held: Where activities of Board of Railroad Commissioners and Oil Conservation Board are correlated in certain regulatory powers, Oil Conservation Board may pay mileage and expenses of Railroad Commission employee pursuing investigation under such regulatory powers.

April 16, 1941.

Oil Conservation Board of the State of Montana
Ford Building
P. O. Box 1122
Great Falls, Montana

Attention: Mr. R. P. Jackson
Secretary

Gentlemen:

Your question is:

“Would it be lawful for this Board to allow, and for the State Auditor to pay, any claim made against this Board by an employee of the State Board of Railroad Commissioners for mileage and other expenses incurred in connection with travel authorized by the Chairman or Secretary of this Board for the purpose of obtaining information pertaining to the production, transportation, refining and marketing of crude petroleum?”

Sections 3552.1 to 3552.4, inclusive, Revised Codes of Montana, 1935, direct the State Board of Railroad Commissioners to promulgate rules and regulations governing the drilling, casing, and abandonment of oil and gas wells and the waste of oil and gas therefrom. Under Section 3552.2, the Act shall be administered “without any cost and expense to the State of Montana in addition to the regular biennial appropriation made for said Board and its ex-officio commissions.”

Under Sections 3554.1 to 3554.19, inclusive, Revised Codes of 1935, the Oil Conservation Board was created primarily to prevent waste. Among the broad powers granted is the power and duty “To have general control, regulation and supervision of the production, transportation and storage of crude petroleum within the State of Montana.” (Section 3554.9 (Subdivision 1).)

Sections 3554.14 and 3554.15, as amended, require a tax of one-fourth cent per barrel of petroleum. The proceeds of the tax are used to defray the expenses of the regulatory Act. (Section 3554.17.) The expenditures by the board under the Act are limited to these proceeds. (Section 3554.6.)

To a certain extent, the activities of the Board of Railroad Commissioners and the Oil Conservation Board are directed along the same line under the foregoing statutes. The common purpose is to prevent waste in oil production. The information developed by an employee of the Railroad Commission as a result of investigation along these lines is of value in the regulatory administration by both boards under these statutes. The fact that the financial limitations on the activities of the Board of Railroad Commissioners in this respect are limited to the biennial appropriations cannot affect the power of the Oil Conservation Board to administer the Act under which it functions. Under Section 3554.6, the Oil Conservation Board may employ its own experts, assistants, etc., subject only to the limitations of revenue. The employee of the Railroad Commission, pursuing such investigation, would be acting in a dual capacity for the benefit of both boards.

I conclude, therefore, that there is no legal objection to the procedure you have outlined, insofar as such employee performs functions within the scope of his duties as an employee of the Railroad Commission and likewise within the scope of the functions of employees of your board. The only question remaining, therefore, is one of policy to be determined by the boards involved.

Sincerely yours,

JOHN W. BONNER,
Attorney General