

Opinion No. 168.**County Commissioners—Mileage—
Meetings.**

Held: On the authority of the previous opinions the members of the board of county commissioners are entitled to mileage for three round trips from their respective place of residence to the county seat of they actually travel between their homes and the county seat for each called meeting as set forth in the first paragraph of this opinion.

January 24, 1944.

Mr. E. Gardner Brownlee
County Attorney
Ravalli County
Hamilton, Montana

Dear Mr. Brownlee:

You inquire as to the proper amount of mileage payable for members of the board of county commissioners where they meet for the regular three day session as such board and adjourn; meeting again on the following day pursuant to notice given as a board of public welfare and adjourn; and meet on the next day following pursuant to due notice in special session as a board of county commissioners.

County commissioners receive \$8.00 per day for each day's session of the board and 7c 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 shall be allowed. (Chapter 176, Laws of 1939.)

Section 4 of Chapter 129, Laws of 1939 provides in part:

"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 . . ."

Former Attorneys General have ruled that members of the board when meeting as a member of board of county commissioners although they may travel from their home to the county seat and return for each day's meeting during a regular session are only entitled to mileage for one round trip. (Vol. 5, page 592; Vol. 8, page 43 and page 48; Vol. 17, page 381, Report and Official Opinions of the Attorney General.)

Our Supreme Court has held that the language used in Section 4 of Chapter 129, Laws of 1939, has the effect of adopting the provisions of Section 4464, Revised Codes of Montana, 1935, and makes them applicable to county commissioners while sitting as a board of county public welfare. (State ex rel. Broadwater County vs. Potter, 107 Mont. 284, 84 Pac. (2) 796.)

Former Attorneys General have ruled that where the board meets in regular session as a board of county commissioners and adjourns, on the succeeding day they meet pursuant to notice given as a board of public welfare, if the commissioners actually travel to and from the county seat to their homes they are entitled to mileage for two round trips. (Vol. 18, Opinion No. 94; Vol. 19, Opinion No. 32, Report and Official Opinions of the Attorney General.)

These statutes are not altogether free from ambiguity and may be susceptible of a variety of constructions. They have been construed by previous Attorneys General. The legislature has met and adjourned since these opinions were rendered. This is strong evidence of the fact that they approve of the construction, since no amendment or amendments were made to these statutes.

On the authority of the previous opinions the membership of the board of commissioners are entitled to mileage for three round trips from their respective place of residence to the county seat, if they actually travel between their homes and the county seat for

each called meeting as set forth in the first paragraph of this opinion.

Sincerely yours,
R. V. BOTTOMLY
Attorney General