

**Opinion No. 238.****County Commissioners — Mileage,  
County Commissioners.**

Held: County Commissioners entitled to seven (7) cents per mile for distance necessarily traveled in going to and returning from the county seat and place of residence for attendance of sessions of the board of county commissioners.

August 8, 1944.

Mr. R. H. Wiedman  
County Attorney  
Lake County  
Polson, Montana

Dear Mr. **Wiedman**:

You have requested an opinion of this office as follows:

Is the mileage of county commissioners to and from their residences to the county seat governed by the

provisions of Chapter 176, Laws of 1939, or Chapter 121, Laws of 1941.

Chapter 176, Laws of 1939, amends Section 4464, Revised Codes of Montana, 1935, to read as follows:

"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 session of the board, and seven 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."

It is to be noted that Section 4464, Revised Codes of Montana, 1935, as amended by Chapter 176, has been on our statute books since prior to 1895, and said amendment by Chapter 176 is the first amendment to said act since 1887. The only change made by said Chapter 176 was to reduce the amount payable for such mileage from ten cents per mile to seven cents per mile.

Chapter 121, Laws of 1941, amends Section 4884, Revised Codes of Montana, 1935, to read as follows:

"Mileage of all Officers. Members of the legislative assembly, state officers, county officers, township officers, jurors, witnesses, county agents, and all other persons, except sheriffs who may be entitled to collect mileage at a rate of not to exceed five cents (5c) per mile for the distance actually traveled, and no more."

It is also to be noted Section 4884, Revised Codes of Montana, 1935, has been in force since 1895, and for some time prior to 1941 provided seven cents per mile for such persons as were included within its terms. In other words, there has for many years been a difference between the mileage allowed county commissioners and those persons covered by Section 4884.

This office on numerous occasions heretofore has held Section 4884, Revised Codes of Montana, 1935, was a general statute and other statutes dealing with specific officers' mileage were controlling. (See in this respect Opinions No. 61, 125, 352, Volume 19, Report and Official Opinions of the Attorney General.)

It is to be particularly noted in this case that Section 4464, Revised Codes of Montana, 1935, carries the introduction as follows: "Compensation of members of board." Also, it provides the per diem of eight dollars per day for each day's attendance on the sessions of the board and seven cents per mile for the distance necessarily traveled in going to and returning from the county seat and the commissioners' place of residence, and said section is completed with the following limitation:

" . . . and no other compensation must be allowed."

Thus, in accordance with said Section 4464, the mileage allowed county commissioners for travel between the county seat and their residence is in reality figured by this statute to be a part of his compensation. The mileage allowed by said Section 4464 does not apply to all mileage, but merely applies to such mileage as is traveled in going to and from the commissioners' place of residence and the county seat.

Therefore, it is my opinion county commissioners are entitled to the sum of seven (7) cents per mile for the distance necessarily traveled in going to and returning from the county seat and place of residence for the attendance of sessions of the board of county commissioners.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General