

ASSESSOR:
COUNTY ASSESSOR:
SECOND CLASS COUNTY:
MILEAGE:
TRAVEL EXPENSES:

An assessor of a second class county may receive from the county court reimbursement for reasonable travel expenses actually and necessarily incurred in carrying out his official duties within the county at the reasonable rate of eight cents per mile.

March 11, 1964

Opinion No. 29

Honorable Don E. Burrell
Prosecuting Attorney
Springfield, Missouri



Dear Mr. Burrell:

Your recent request for an opinion of this office reads as follows:

"I have been requested to obtain an opinion as to whether or not the County Court in a second class county can pay mileage to the County Assessor and if so, under what circumstances and at what rate can this mileage be paid."

This office was presented with a similar opinion request regarding the reimbursement for travel expenses of the collector of a second class county. This office concluded, in Opinion No. 283, under date of September 10, 1963, addressed to the Honorable Brunson Hollingsworth, that: "A collector of a second class county may receive from the county court reimbursement for reasonable travel expenses actually and necessarily incurred in the carrying out of the official duties imposed by Sections 139.080 and 150.110, RSMo 1959."

The situation involving the reimbursement of a collector of a second class county and the assessor of a second class county is very similar: Both lack a specific mandate for such reimbursement; both are to receive salaries in lieu of fees. The general statute, Section 49.275, RSMo 1959, providing for mileage to public officers of first class counties applies to collectors and assessors of first class counties but not to collectors and assessors of second class counties. In addition, in regard to the latter similarity, the assessor of the counties of the third and fourth class are now expressly provided travel expenses under Section 53.135, Cum. Supp., 1963.

It is the opinion of this office that due to the above stated similarities between collector and assessor of second class

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counties, the conclusion of this office that a collector of a second class county may receive reimbursement for reasonable travel expenses necessarily and actually incurred in carrying out the statutory duties of collector, applies equally to the assessor of a second class county so that he may receive reimbursement for reasonable travel expenses necessarily and actually incurred in carrying out the statutory duties of assessor.

Section 53.135, supra, which provides for reimbursement for assessors of counties of the third and fourth class "for actual and necessary travel expenses incurred in the performance of his official duties within the county at the rate of eight cents per mile," does not have the effect of prohibiting payment of such expenses in other counties where there is no statutory authority for such payment. Rather, it constitutes legislative recognition of the propriety of expenditures for travel expenses and the rate to be allowed.

In *Rinehart v. Howell County*, 153 SW2d 381, the court held that a statute, which provided stenographic expenses in larger counties did not exclude by such expression the payment of stenographic expenses in smaller counties but rather it constituted the basic recognition of the propriety of such expenses. Surely, if the legislature recognized the propriety of expenses in a smaller county, it of necessity must have recognized that such expenses exist in larger counties and did not intend to discriminate against the larger communities, just as in the *Rinehart* case it was held that the legislature did not intend to discriminate against smaller communities.

CONCLUSION

Therefore, it is the opinion of this office that an assessor of a second class county may receive from the county court reimbursement for reasonable travel expenses actually and necessarily incurred in carrying out his official duties within the county at the reasonable rate of eight cents per mile.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Jeremiah D. Finnegan.

Yours very truly,


THOMAS F. EAGLETON
Attorney General