

Opinion No. 50 Answered by Letter  
(Northcutt)

March 5, 1964



Honorable Harold L. Henry  
Prosecuting Attorney  
Howell County  
West Plains, Missouri

Dear Mr. Henry:

This letter, along with my letter of January 31, 1964, is in answer to your request of December 31, 1963, for an opinion concerning the mileage that may be charged and collected by the county assessor. This letter and my letter of January 31, 1964, are to be read together.

The statute in question, Section 53.135, Cum. Supp. 1963, in its pertinent part states as follows:

"\* \* \* shall be allowed a reimbursement 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 \* \* \*."

To specifically answer your question as to whether the assessor may charge and be paid for travel between his residence and his office, it is my opinion that he may not.

The actual and necessary expenses above referred to do not contemplate payment for such travel but only that "actual and necessary travel" brought about by the actual work and travel in arriving at a proper assessment of property within the county.

Honorable Harold L. Henry -2-

To put it in another manner, in order to obtain payment for travel expenses the assessor must have incurred them in the actual performance of such duties.

The obligation to be at the office is not an official duty of such officer nor is traveling to his office an official duty of his office. Or, in another way, it may be said that unless the Legislature has specifically included in the allowable expenses of public assessors the cost of traveling from their homes to the place where their work is regularly performed, such expenses cannot be held to be a legitimate public charge. Austin v. Barrett, 16 P.2d 12, 1.c. 16, and Thompson v. Fromiller, 107 P.2d 375.

Trusting that this will answer your question, I am,

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

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Opinion No. 50 Answered by Letter  
(Northcutt)

January 31, 1964



Honorable Harold L. Henry  
Prosecuting Attorney  
Howell County  
West Plains, Missouri

Dear Mr. Henry:

I am writing you in answer to your request for an opinion concerning the traveling expenses of the assessor of Howell County, in which you specifically inquire whether or not the assessor may charge and be paid mileage by the county court in going to and from his residence to his office.

In answer to your request I am enclosing two prior opinions of this office as follows: an opinion dated September 10, 1963, to the Honorable Brunson Hollingsworth, Prosecuting Attorney of Jefferson County, concerning traveling expenses of county collectors and mileage of county collectors, and an opinion dated September 17, 1959, addressed to the Honorable Frederick E. Steck, Prosecuting Attorney of Scott County, concerning prosecuting attorneys' mileage. I believe that a reading of these opinions and a reading of Section 53.135, RSMo Cum. ~~Supp.~~ 1963, will answer the question you have put forth.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

Enclosures - 2  
RRN:lt