

SCHOOLS

President and Clerk of School District attending county school meeting entitled to 5¢ per mile going and returning.



May 17, 1946

Honorable George A. Spencer
Prosecuting Attorney
Boone County
Columbia, Missouri

Dear Mr. Spencer:

This Department is in receipt of your request for an official opinion which reads as follows:

"The question has arisen here concerning the payment of mileage to the President and Clerk of the School Board under Section 10624 Revised Statutes of Missouri, 1939. This statute provides in part:

"a. And each school officer attending such meeting shall receive compensation at the rate of one dollar fifty cents (\$1.50) per diem and mileage at the rate of five (5¢) cents per mile for the number of miles necessary to be traveled in going from the school house of his district to the place of meeting"

"The question is, are these officers entitled to five cents (5¢) per mile each way or does that mean five cents (5¢) a mile for only one way."

Section 10624, R.S. Mo. 1939, provides, in part, as follows:

"It shall be the duty of every president of a school board and of every clerk of a school district in the several counties to attend

the meeting of school officers called by the county superintendent of public schools for the purpose of considering and discussing questions pertaining to school administration; and each school officer attending such meeting shall receive compensation at the rate of one dollar and fifty cents per diem and mileage at the rate of five cents per mile for the number of miles necessary to be traveled in going from the schoolhouse of his district to the place of meeting, same to be paid out of the incidental fund of his district: * * * ".

It is well settled in this State that no officer is entitled to fees of any kind unless provided for by statute, and the law conferring such right must be strictly construed because of statutory origin and right. Ward vs. Christian County, 341 Mo. 1115, 111 S.W. (2d) 182; Smith vs. Pettis County, 345 Mo. 839, 136 S.W. (2d) 282.

As was said in Maxwell vs. Andrew County, 146 S.W. (2d) 621, 1.c. 625:

"* * *.The specification in the statute of instances when mileage is to be paid and money lawfully be received by the sheriff constitutes an implied prohibition upon its collection in other instances. * * * ".

There are no cases in Missouri which deal directly with this question, but the general rule as given in 57 Corpus Juris, page 1131 is:

"* * * statutes relating to the mileage of sheriffs and constables are construed to allow mileage on a circular or round trip basis, or, in other words, for each mile traveled on the journey, not only going but also returning; * * * ".

It will be noted that the statute provides that the mileage will be paid for the miles traveled "from the school house of his district to the place of meeting."

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The Supreme Court of Iowa in the case of Harding vs. Montgomery Co., 55 Iowa 41, 7 N.W. 396, had before it for construction a statute which provided as follows:

"* * * For conveying each convict to the penitentiary, and as full compensation therefor, 16 cents for each mile traveled, to be computed from the county seat where the conviction took place by the most direct route of travel; the same to be paid out of the county treasury."

The above statute is very similar to Section 10624, supra, and the Iowa Court held as follows:

"We think a fair construction of this language is that payment should be made for each mile traveled on the journey going and returning. It is said that the allowance is for conveying the convict to the penitentiary, and that means only the actual travel from the county seat to the penitentiary. But it seems to us it is a fairer and more rational construction of the language to hold that it means payment for the travel made necessary to accomplish the purpose, which is to convey the person to the penitentiary. It is not to be supposed that a sheriff, who is required to keep his office at the county seat, would not necessarily return to that place. While the question is not free from difficulty, we think the court below determined it correctly. * * *".

In view of the above authority it is believed that, the President of the School Board and the Clerk

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of the school district attending a meeting called by the County Superintendent of Public Schools is entitled to mileage at the rate of five (5¢) cents per mile for each mile that they may travel in going from the district school house to the place of the meeting and returning.

CONCLUSION.

It is, therefore, the opinion of this Department that, the President of a school board and the clerk of a school district attending a meeting called by the County Superintendent of Public Schools under Section 10624, R.S. Mo. 1939, are entitled to mileage at the rate of five (5¢) cents per mile for each mile traveled from the school house of the district to the place of meeting and return to the school house.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General

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