

February 25, 1966

OPINION NO. 186
Answered by Letter(Nowotny)

Honorable Haskell Holman
State Auditor
Capitol Building
Jefferson City, Missouri



Dear Mr. Holman:

This is in answer to your request for an opinion on the question of whether a county judge is entitled to mileage under Section 49.110 and 49.120, RSMo Cum. Supp. 1965, when meeting with the County Board of Equalization as required by Section 138.010, RSMo Cum. Supp. 1965.

Section 49.110, supra, provides for per diem and mileage for county court judges of class three counties and Section 49.120, supra, provides for per diem and mileage for county court judges of class four counties. Each section is substantially the same and the applicable part of each section concerning mileage is identical. Therefore, we only quote Section 49.110 which reads as follows:

"In all counties of the third class the judges of the county court shall receive for their services fifteen dollars per day for each of the first ten days in any month that they are necessarily engaged in holding court and shall receive ten dollars per day for each additional day in any month that they are necessarily engaged in holding court, and shall receive

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ten cents per mile for each mile necessarily traveled in going to and returning from the place of holding county court and for all other necessary travel on official business in the personal automobile of the judge presenting the claim. The per diem compensation herein fixed shall be paid at the end of each month and the mileage compensation shall be paid at the end of each month on presentation of a bill, by the respective county judge, setting forth the number of miles necessarily traveled."

Section 138.010, RSMo Cum. Supp. 1965, provides for a County Board of Equalization and reads as follows:

"1. In every county in this state, except as otherwise provided by law, there shall be a county board of equalization consisting of the judges of the county court, the county assessor, the county surveyor, and the county clerk who shall be secretary of the board without vote; except in any county having township organization, the township assessor shall sit as a member of the board of equalization when the assessment of his township is under consideration or review."

"2. This board shall meet at the office of the county clerk on the second Monday in July, 1946, and on the second Monday of July of each year thereafter."

Section 138.020, RSMo Cum. Supp. 1965, provides for compensation for members of the board and reads as follows:

"The judges of the county court, the county surveyor, the county assessor, the county clerk, and those sitting as members as may otherwise be provided, shall receive five dollars per day for each day they shall be present and act in the performance of their duties as members of the county board of equalization; provided, that the above county officers who are now or may hereafter be compensated by salary shall not be entitled to the compensation provided in this section. "

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The legislature, then, specifically provides for compensation when the County Board of Equalization meets but does not specifically provide for mileage.

The legislature in Section 49.110 and 49.120, supra, specifically provides for compensation for county judges of third and fourth counties when holding court and also specifically provides for mileage. This mileage is given when traveling to and from court and for "all other necessary travel on official business".

It is our opinion that mileage is only provided for travel on official business of the county court and that travel in connection with the County Board of Equalization does not qualify for such mileage.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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