

Your attention should also be called to sections 2845 and 2852, General Code, where the mileage fees for certain enumerated services are specified by statute, and to sections 2847 and 346, General Code. Section 2997, General Code, *supra*, is not in conflict with any of these sections. The sheriff is entitled to his necessary and actual expenses under all these sections.

My opinion is not in conflict with Opinion No. 63 of the Attorney General's Opinions for 1933, construing section 2412-1, General Code, which provides for the purchase of vehicles for use of the county commissioners and other county officers. The inquiry there was whether or not they could purchase gas and oil for their own private automobiles to go to and from their meetings, and to inspect roads, and have such items of expense charged to the county. The second and third branches of the syllabus read:

"2. Section 2412-1, General Code, does not authorize the substitution of a privately owned vehicle in lieu of the purchase of a public vehicle to be publicly owned and operated in the regular discharge of county business.

3. A county commissioner may operate his private automobile in the transaction of public business, on gasoline and oil purchased with public funds only where the statute authorizes his expenses, as in section 1183-1, General Code."

This was based on the reasoning that the legislative intent from construction of sections 2412-1, 2412-2, and 12880-1 of the General Code together, was to prevent fraud, and that statutes prescribing definite duties and compensation to the county commissioners (see sections 1183-1 and 6502, General Code) led to the conclusion that a county commissioner is entitled to additional compensation for transportation only where the statutory authority for such is clear. Since no compensation or expense allowance to county commissioners in addition to their regular salaries is provided by the statute except in specific instances, this negated their right to secure payment with respect to these matters.

Specifically answering your inquiry, I am of the opinion that, under section 2997, General Code, the county commissioners are authorized to make an allowance to the sheriff in reimbursement of his actual and necessary expenses incurred in the use of his private automobile, based on a flat rate per mile, for the mileage covered while such automobile is being used by the sheriff in the performance of his official duties. However, this will authorize nothing but reimbursement and good faith must be used in fixing the mileage rate.

Respectfully,

JOHN W. BRICKER,
Attorney General.

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APPROVAL, NOTES OF MAGNOLIA RURAL SCHOOL DISTRICT, CARROLL COUNTY, OHIO, \$4,778.00.

COLUMBUS, OHIO, July 22, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.