

OPINION NO. 70-149**Syllabus:**

The board of county commissioners may reimburse county officials for necessary travel expenses incurred while driving their own vehicles within the confines of the county in the performance of their public duties.

To: John J. Malik, Jr., Belmont County Pros. Atty., St. Clairsville, Ohio
By: Paul W. Brown, Attorney General, November 2, 1970

You have requested my opinion on the legality of county commissioners paying the necessary travel expenses of county officials who use their own vehicles on official business within the

confines of the county. No statutory authority exists which prescribes the circumstances under which county officials are eligible to receive expense money to reimburse them for travel expenses incurred while engaged in their duties except Section 325.20, Revised Code, which addresses itself to situations in which said county officials attend meetings or conventions with the express permission of the board of county commissioners. There are two Attorney General Opinions in point. Opinion No. 217, Opinions of the Attorney General for 1930, expresses itself through part 2 of the syllabus as follows:

"2. In the absence of statutory or charter provision or limiting such action, a public officer or public employe may lawfully be reimbursed from public funds for traveling and other personal expenses actually and necessarily incurred by him in the performance of a public duty in furtherance of a definite project or undertaking then under way or in immediate prospective contemplation, provided in the exercise of a sound and proper discretion, it appears that the incurring of said expenses is necessary for the benefit of the political subdivision which the officer or employe serves, and in the performance of a duty enjoined or authorized by law. If by statute or charter provision such expenses are limited the officer or employe may be reimbursed within the limitations allowed by such law only."

This opinion stands for the proposition that public officials or employees can lawfully be reimbursed for travel incurred while said officials or employees are engaged in legitimate purposes so long as no express statutory authority exists to the contrary. Under the situation as presented here, there is no statutory authority which proscribes the travel reimbursement in question. Opinion No. 690, Opinions of the Attorney General for 1951, quotes the 1930 opinion above-cited, with approval and provides in the first and second syllabi as follows:

"1. County officers and employes may be reimbursed for necessary travel expenses incurred by them while using their personally owned automobiles on official county business, and in such cases, the method adopted for payment of such expenses is discretionary with the county officials having final authority in such regard.

"2. In the exercise of such discretion, the method of payment as reimbursement for actual expenses incurred may provide for separate payment of itemized parking charges or may include the expenses of such parking within a flat payment computed on the basis solely of miles of operation."

The fact that the travel involved here occurs in the county does not serve to vitiate the authority here followed.

Consequently, I am of the opinion and you are hereby advised that the board of county commissioners may reimburse county officials for necessary travel expenses incurred while driving their

own vehicles within the confines of the county in the performance of their public duties.