

to some extent on the county commissioners, especially with respect to the furnishing of offices and supplies, and the providing of moneys for the payment of deputies and clerks, and other necessary expenses incident to the maintenance of the office."

The county commissioners are not analogous to a City Council or the state General Assembly,—they do not have general legislative powers—and their administrative functions are, as previously set forth, such only as are conferred by statute together with those necessarily implied as incident thereto.

Though this survey by experts may be for a most laudable purpose, the question remains, whether or not the commissioners have the power to effectuate such purpose. It is a legal purpose, not a laudable purpose, that justifies an expenditure of the taxpayers' money.

In view of the foregoing and in specific answer to your question, it is my opinion that county commissioners, under existing law relating to county government, are not authorized to contract for the employment of a bureau of governmental research to make a survey and study of county offices and institutions, which survey consists of recommending new systems of accounting, advising as to a new system of budget procedure, reporting on personnel, office lay-out, contract procedure, budgeting, etc., and that the ruling of the State Bureau of Inspection and Supervision of Public Offices, denying the authority of the commissioners to enter into the contract in question, is correct.

Respectfully,

GILBERT BETTMAN,

Attorney General.

2888.

BOARD OF EDUCATION—COMPENSATION—ATTENDANCE AT MEETING
—REMUNERATION MEMBERS SHOULD RECEIVE REGARDLESS OF
ACTUAL EXPENSES INCURRED.

SYLLABUS:

Members of a county board of education should be paid \$3.00 per day, and mileage at the rate of 10c per mile one way, for attendance upon any meeting of the board, regardless of the actual expenses incurred by the member.

COLUMBUS, OHIO, January 30, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"Section 4734, General Code, provides that each member of a county board of education shall be paid \$3.00 per day and mileage at the rate of 10c per mile one way to cover his actual and necessary expenses during his attendance upon any meeting of the board. It further provides that such

expenses, itemized and verified shall be paid from the county board of education fund upon vouchers signed by the president of the board.

Question: May the \$3.00 per day and the mileage be paid regardless of the amount of expenses incurred by the member, or whether any expenses are incurred?"

Section 4734, General Code, reads as follows:

"Each member of the county board of education shall be paid three dollars a day and mileage at the rate of ten cents a mile one way, to cover his actual and necessary expenses incurred during his attendance upon any meeting of the board. Such expenses, and the expenses of the county superintendent, itemized and verified shall be paid from the county board of education fund upon vouchers signed by the president of the board."

When the above statute was first enacted in 1914 (104 O. L. 137), it was provided in the first sentence thereof, that each member of a county board of education should be paid his actual and necessary expenses incurred when attending a meeting of the board. When the statute was amended in 1919, to read as it now does, the last sentence of the statute with reference to itemization and verification of the account was not changed. It read the same before as now.

Your question involves a determination of the proper construction of the statute and for that purpose we must look to the language of the statute itself. So far as the payment of 10c per mile one way, is concerned, there can be no question that the intent of the Legislature was to authorize the payment of this mileage whether it was more or less than the expense actually incurred and there would probably be no question as to the payment of the per diem stated in the statute were it not for the fact that the statute directs that the expenses be itemized and verified. At first blush it would appear that the necessity for itemization of the expenses would be an idle gesture if it was intended that the full amount of \$3.00 per day be paid whether that amount of expense was actually incurred or not. On further consideration, however, it is perfectly consistent with the idea that the full amount of \$3.00 per day be paid, to provide as well that the expenses be itemized. It is perfectly proper to require that the number of days be set out and the dates be stated when the attendance at the meetings occurred. This is properly called an itemization of the expenses.

The language of the statute is clear and unequivocal wherein it states that there shall be paid \$3.00 per day and mileage at a definite rate for the express purpose, as stated in the statute, "to cover" the actual and necessary expenses. It seems apparent that the legislature, in using this language as it has, intended that the full amount stated should be paid and that the purpose of it was to cover the expenses. It has been held in earlier opinions of this office that the statute does not authorize a payment of compensation, but that the amount authorized to be paid is meant to cover the expenses. Had the statute stated, as well it might, that payment should be made not to exceed \$3.00 per day it would be clear that the legislature had intended that no more should be paid than the actual expenses incurred, but inasmuch as the payment of \$3.00 a day is directed in clear and positive language, I am of the opinion that this amount as well as the mileage of 10c per mile one way, should be paid the members of a county board of education for attendance upon any meeting of the board.

Respectfully,

GILBERT BETTMAN,

Attorney General.