

2472

TOWNSHIP TRUSTEE ATTENDING HEALTH DISTRICT ADVISORY COUNCIL MEETING NOT ENTITLED COMPENSATION UNDER 505.24, R. C. AS HE IS NOT PERFORMING DUTIES RELATING "TO PARTITION FENCES" OR "BUSINESS OF THE TOWNSHIP"—§§3709.03, 505.24, R. C., OPINION NO. 747, OAG FOR 1949, PAGE 414

SYLLABUS:

A member of a board of township trustees who attends a health district advisory council meeting as a delegate is entitled for such services only to the compensation provided in Section 3709.03, Revised Code, and is not performing duties relating "to participation fences" or on "business of the township" as provided in Section 505.24, Revised Code, and is not, therefore, entitled to be compensated under that section. Opinion No. 747, Opinions of the Attorney General for 1949, page 414, approved and followed.

Columbus, Ohio, August 24, 1961

Hon. Robert Webb, Prosecuting Attorney
Ashtabula County, Jefferson, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The question has been raised by township trustees of Ashtabula County, as to whether a delegate from the Board of Township Trustees in attending a Meeting of a General Health District Advisory Council under Section 3709.03 of the Revised Code, may collect \$5.00 a day and necessary expenses from the village or township he represents, in addition to his regular compensation of \$6.00 per day; or whether this would be considered dual compensation and that he would not be entitled to the regular compensation of \$6.00 a day unless he had worked on the roads or had done some other duties other than attending the General Health District Advisory meeting, in which case he would be entitled to only \$5.00 per day plus necessary expenses."

The salary of a township trustee is set by Section 505.24, Revised Code, which reads as follows:

"Each township trustee is entitled to compensation as follows:

"(A) Six dollars for each day of service in the discharge of

his duties in relation to partition fences, to be paid in equal proportions by the parties ;

“(B) Six dollars for each day of service in the business of the township, to be paid from the township treasury ;

“(1) In townships having a budget of less than ten thousand dollars, compensation for not more than one hundred days at six dollars per day ;

“(2) In townships having a budget of from ten thousand to twenty thousand dollars, compensation for not more than one hundred thirty days at six dollars per day ;

“(3) In townships having a budget of from twenty thousand to thirty thousand dollars, compensation for not more than one hundred sixty days at six dollars per day ;

“(4) In townships having a budget of thirty thousand dollars or over, compensation for not more than two hundred days at six dollars per day. Each trustee shall present an itemized statement of his account for such per diem and services, which shall be filed with the township clerk and preserved for inspection by any persons interested.”

Section 3709.03, Revised Code, provides for the organization, membership and meetings of a district advisory council for a general health district as defined by Section 3709.01, Revised Code, composed of the villages and townships in a county. Its members consist of the chief executive of each municipal corporation not constituting a city health district and the chairman of the board of township trustees of each township in the general health district. If such chairman is unable to attend any meeting of the council, then the board of township trustees selects an alternate from the board to represent the township. The members of such council are referred to as delegates.

The council meets annually on the first Monday in March at the county seat to organize by electing a chairman and secretary. It has the duty of appointing a board of health for the district and at the annual meeting to elect a member of the board of health and to make recommendations to the department of health for the betterment of health and sanitation within the district. Special meetings of the council are held on the request of the board of health or on order of the director of health.

Said Section 4709.03 provides compensation for the delegates attending the meetings, as follows :

“* * * On certification of the chairman and secretary each delegate to an annual or special meeting shall be paid five dollars a day and necessary expenses by the village or township he represents in addition to his regular compensation. * * *”

While the language used does not clearly indicate what the legislature intended by the use of the words “in addition to his regular compensation,” it will be noted that each delegate to the council, whether a chief executive of a village, a chairman of the board of township trustees, or his alternate as the case may be, is an elected public official to whose office is attached a stated or regular compensation. Thus, it would appear that “regular compensation” means that amount paid for performing the regular duties of the office *for the political subdivision for which he was elected*. In the case of a township trustee “regular compensation” would mean, therefore, that provided by Section 505.24, *supra*.

It appears obvious that a township trustee delegate to a meeting held pursuant to Section 3709.03, *supra*, cannot at the same time be performing duties in relation to partition fences. Also, attendance at the meeting would not appear to be “service in the business of the township,” as it would better be termed “service in the business of the general health district.” As stated by one of my predecessors in Opinion No. 747, Opinions of the Attorney General for 1949, page 414, at page 416:

“The problem now is, what did the legislature mean when it said ‘this to be in addition to his regular compensation,’ as stated in Section 1261-18? It is apparent that the legislature intended that those who perform duties as delegates on the advisory council should be compensated for those duties.

“Strictly speaking, each delegate is engaged on the business of the health district and not on the business of individual subdivisions, even though the matter of public health is one of vital importance to each subdivision.

“The compensation provided for in Section 3294 means that compensation to which each trustee is entitled by virtue of his election to the board of trustees; it should be noted that since the compensation provided for is limited to a certain number of days, the board is not such an office that requires the attention of its members full time.

“The compensation provided for in Section 1261-18, *supra*, can only mean pay for the number of days to which the chairman of the board of trustees is entitled for services rendered as a member of the advisory council and not as a trustee for the township.” The syllabus of Opinion No. 747, *supra*, reads:

“A chairman of a board of township trustees who attends a health district advisory council meeting as a delegate is not on business for the township, as provided for in Section 3294, General Code, and is entitled to receive only that compensation for which services are rendered.”

NOTE: Section 3294, General Code, is now Section 505.24, Revised Code; Section 1261-18, General Code, is now Section 3709.03, Revised Code.

It follows, therefore, that a member of a board of township trustees cannot be paid under Section 505.24, Revised Code, for services rendered pursuant to Section 3709.03, Revised Code.

Answering your specific question, it is my opinion and you are advised that a member of a board of township trustees who attends a health district advisory council meeting as a delegate is entitled for such services only to the compensation provided in Section 3709.03, Revised Code, and is not performing duties relating “to partition fences” or on “business of the township” as provided in Section 505.24, Revised Code, and is not, therefore, entitled to be compensated under that section. Opinion No. 747, Opinions of the Attorney General for 1949, page 414, approved and followed.

Respectfully,

MARK McELROY

Attorney General