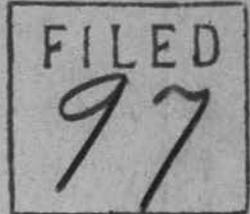


*Copy to
Z. Smith*

COUNTY COURTS: County courts in counties of the third class may charge mileage for each trip in going to and from court.

22nd

July 21, 1948



Honorable John F. Wilson
Presiding Judge
Jasper County Court
Joplin, Missouri

7-22

Dear Sir:

This is in reply to your letter of recent date wherein you request an official opinion from this department in the following language:

"Will you please furnish the undersigned with an official opinion on the question of the authority of the members of the county court in a county of the second class to charge and collect mileage for each trip they make in holding court in such counties?"

In order for officers to be entitled to compensation for duties performed in connection with their office, they must be able to point to the statute authorizing such charges. Cite Nodaway County vs. Kidder, 129 S.W. (2d) 857. With that principle in mind, we look to the statutes to determine whether or not members of the court may charge mileage for each trip they make in holding court. Jasper County being a county of the second class, we find that in Laws of Missouri, 1945, page 838, the law which relates to the compensation and mileage of judges in such counties, Section 2 of the act fixes the salaries of the judges. Section 3 of the act provides as follows:

"The judges of the county court in counties of the second class shall receive the sum of five cents per mile for each mile actually and necessarily traveled in the performance of their official duties. All claims for reimbursement for mileage shall be in writing, and signed by the judge making claim therefor, and filed with the clerk of the county court. Every such claim shall show the miles traveled, the date of each trip, the nature of the business, and the places to and from which such judge has traveled during the period covered."

It will be noted from this section that there are no limitations on the number of trips judges may charge for attending courts in their counties. The only provisions are that the miles traveled must be necessarily traveled in the performance of their official duties. Prior to the enactment of the 1945 act, Section 2494, R. S. Mo. 1939, provided for the compensation and mileage of judges in counties of the same class as Jasper County. This section limited the number of times that judges of county courts in counties of less than 20,000 inhabitants could make this mileage charge, but it did not limit the number of times that judges of county courts in counties such as Jasper County could make this charge in any one year. Apparently the lawmakers, by the enactment of the 1945 act, supra, have intended not to change the law in respect to the number of times county judges in counties such as Jasper County may charge mileage for attending court.

CONCLUSION

From the foregoing, it is the opinion of this department that judges of county courts in counties of the second class are not restricted in the number of times they may charge mileage which they actually and necessarily travel in the performance of their official duties.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

TWB:VLM