

**OPINION
74-180**

March 6, 1974 (OPINION)

Mr. Richard B. Thomas
State's Attorney
Ward County
Minot, ND 58701

Dear Mr. Thomas:

This is in response to your letter of February 25, 1974, with regard to mileage for special service on county welfare board.

You call our attention to the provisions of section 11-10-10, subparagraph 5 of the North Dakota Century Code regarding the maximum salary, together with mileage and expenses a county commissioner may receive. You state that this subsection provides in effect that the total shall not exceed \$4,800.00 in counties with a population of over 15,000. You indicate that a commissioner attends approximately 60 meetings of the Board of County Commissioners per year, and that in addition to this he had been appointed as a member of the Welfare Board in which he attends approximately 12 meetings per year.

You state that the question which has arisen through the County Auditor is whether or not mileage can be paid over and above the \$4,800.00 limitation for meetings of the Welfare Board. You indicate that this particular member travels approximately 106 miles round trip for each meeting.

We believe that this situation is governed by section 50-01-08 of the 1973 Supplement to the North Dakota Century Code. You will note that same provides that the members of the county welfare board shall receive a stated sum per day "for time actually spent in transacting the business of the board" (with stated time limitations) and that such sum shall be "in addition to any salaries they may receive from any other source from the state, or county, or any municipality." In addition to the sum paid for their "time" the concluding sentence of this statute provides:

"Members shall be reimbursed by the county for expenses actually incurred in the performance of their official legal duties and shall be paid legal mileage for necessary travel."

The situation is perhaps made a bit more clear by the provision of section 50-01-07 of the North Dakota Century Code that:

"Such county welfare board shall consist of five, seven, or nine members of which not less than one or more than two shall be county commissioners designated by the board of county commissioners."

We think it obvious that the salary, per diem, mileage and expense maximum limitations provided in section 11-10-10 of the 1973 Supplement to the North Dakota Century Code refer to the compensation and reimbursement of the county commissioner, for his services as

county commissioner. It is equally obvious that all members of the county welfare board including the county commissioner member or members are entitled to separate and additional compensation for their time served as members of that board within the limits specified in said section 50-01-08. The county commissioner member of the public welfare board is thus serving in two capacities, one as a member of the board of county commissioners, and two as a member of the county welfare board. While his compensation and reimbursement for his services as such county commissioner is thus limited by the limitation provision of said section 11-10-10, such limitation provisions was not intended to and does not limit either compensation or expense reimbursement he is entitled to as a member of the county welfare board.

We are enclosing herewith a copy of a prior letter of this office dealing with a closely related situation.

We hope the foregoing and enclosed will be sufficient for your purposes.

Sincerely yours,

ALLEN I. OLSON

Attorney General