

OPINION
46-128

January 4, 1946 (OPINION)

HIGHWAY COMMISSIONER

RE: Signing Pay Roll

This will acknowledge the receipt of your letter of January 3, 1946, in which you say that some time previous to your appointment as state highway commissioner it was the practice of the commissioner to authorize the acting head of the accounting department to sign pay roll vouchers in his absence, and that since your appointment this practice has been continued. You say that this has been done so that pay rolls for employees in outlying districts around the state would not be forced to wait longer than absolutely necessary for their checks; that the nature of the work of such employees, who paid on an hourly basis, is such that your department has no record of the hours they put in during a current month until the complete report is sent in which does not reach the department until the first ten days of the following month.

You say further that the question has been raised by the state auditor's office as to the legality of such practice in view of the provisions of sections 24-0304 and 24-0305 of the Revised Code.

If I understand your letter correctly, the vouchers approved by the acting head of the department's accounting office show the actual number of hours put in by each employee and that in order to facilitate payments when vouchers reach your office, which may be during your absence, the acting head of the accounting office approves such vouchers on your behalf as state highway commissioner.

Section 24-0304 of the Revised Code provides: "Before any payroll voucher shall be presented to the state auditor, the same shall be certified and approved for payment by the state highway commissioner . . ." The form of the certificate which appears over the commissioner's signature is provided in said section.

A strict interpretation of the provisions of section 24-0304 and 24-0305 would undoubtedly require literal compliance with the terms thereof, that is to say, such construction would require the personal approval of the highway commissioner of pay roll vouchers. But, in my opinion, practical considerations invite and require a more liberal and common sense construction. The state highway commissioner is subject to the ills and frailties which affect the average human being. He may be taken ill, or he may in the performance of his duties be required to be absent from his office for some time. And like every other public official he undoubtedly needs and is entitled to the usual vacation period.

It is , therefore, my opinion that section 24 0304, of the Revised Code, must be construed in the light of ordinary and practical business procedure. In this connection, I may mention that the statutes require the state highway commissioner to perform many acts and duties which of necessity he must delegate to agents and

employees of his department. It is my opinion that the state highway commissioner may designate the acting head of his accounting office, or some other suitable agent, to sign payroll vouchers during his absence from his office. The act of such agent must be deemed the act of the commissioner, and the commissioner must be held fully responsible therefor. To insure the fidelity of such appointee, the commissioner should, therefore, require a bond in such an amount as he and the state auditing board shall deem adequate in the premises.

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Attorney General