

**OPINION
46-174**

August 27, 1946 (OPINION)

LIVESTOCK

RE: Per Diem of Members - Board of Veterinary Examiners

This is in reply to your letter of August 23, addressed to the attorney general.

You state that your board has a problem as follows: When your budget was made up for the present biennium, the salary of the members of the board was \$5.00 per day; now under the new code, the salary is fixed at \$10.00 per day. The appropriation for salary or per diem for the board members is \$240.00 for the biennium.

Under section 36-0202, the State Board of Veterinary Medical Examiners shall hold meetings for the examination of candidates on the second Wednesday of April and October in each year. This would be two meetings annually or four meetings during the biennium. No session of the board shall exceed two days. Assuming, therefore, that the board has held or will hold four meetings during the biennium, and each meeting lasts two days, then the cost of each meeting would be \$60.00 and four four meetings would be \$240.00, the amount appropriated by the legislature in Chapter 139 of the Session Laws of 1945.

It is true that the board may hold such other meetings as it may deem necessary at such time and place as the board may approve. However, the appropriation for per diem for the members will cover only the four regular meetings during the biennium.

Section 14 of Chapter 264 of the Session Laws of 1946 amends section 36-0203 of the Revised Code of 1943 and fixes the per diem at \$10.00 per day. It provides that each member of the board shall receive the sum of \$10.00 for each day actually engaged in attending meetings of the board and all necessary traveling expenses.

The appropriation bill is Chapter 139 and it fixes the amount for salary or per diem at \$240.00. This act was approved March 13, 1945. Chapter 264 was approved one day later, namely, March 14, 1945. Chapter 264 was, therefore, enacted a day later than Chapter 139.

If the board has found it necessary to hold meetings other than the four regular meetings, it would seem that the members would be entitled to their per diem of \$10.00 per day under the provisions of Chapter 264, which provides in specific terms that each member of the board shall receive the sum of \$10.00 for each day, etc. In other words, section 14 of said Chapter 264 appears to be a standing appropriation and it probably takes precedence over Chapter 139, which appropriates \$240.00 for salaries.

It should be observed that all of the fees which under the law are collected by the board of veterinary medical examiners for examination and registration are required to be paid into the general

fund of the state. Therefore, the per diem of the members of the board must be paid out of the general fund of the state.

It would be my opinion, therefore, that if the board actually finds it necessary to hold meetings in addition to the four meetings of the biennium provided by law, then the members would be entitled to charge and receive \$10.00 per day, notwithstanding that the appropriation covers only four regular meetings. This opinion, of course, is based upon section 14 of Chapter 264 of the Session Laws of 1945.

NELS G. JOHNSON

Attorney General