

OPINION
48-39

September 9, 1948

DRAINS - Expenses of Members of County Board

This office is in receipt of your letter of September 1, 1948, in which you request the opinion of the attorney general as to whether or not members of county boards of drain commissioners are entitled to mileage in order to attend meetings of their boards.

Section 61-2146 of the 1943 Revised Code provides for the compensation of drain board commissioners. It reads as follows:

"Each drain commissioner shall receive for his services five dollars per day for the time actually spent by him in the performance of the duties of his office and actual necessary expenses when away from home. Such sums shall be chargeable to the drain or drains on which the time was spent. Not more than the compensation for any one day shall be allowed to him for services rendered in any one calendar day of twenty-four hours. The drain commissioners shall render an itemized statement showing the date or dates when their services were rendered."

You will note that said section makes no provision for mileage. It allows "actual necessary expenses when away from home."

In view of the fact that mileage is not mentioned, it is our conclusion that allowance for mileage cannot reasonably be implied. For who would have the legal right to determine what amount in terms of "mileage" is "actually necessary?" Various county boards would have different conclusions as to the amount which should be allowed for mileage.

In view of the provisions of section 61-2146 of the 1943 Revised Code, it is our opinion that members of county drain boards must list their expenses as "actual traveling expenses." The number of miles traveled should undoubtedly be shown. The cost per mile traveled in one's own automobile is a matter of opinion. Ordinary cost of transportation in one's own car would be figured on the basis of a certain amount per mile.

Since "actual necessary expenses when away from home" are allowed, drain commissioners are entitled to reimbursement for meals and lodging as well as expense of transportation.