

COUNTY JUDGES:

Judges of county courts in counties of the Third Class, when acting as board of equalization, shall receive no mileage fee for travel to or from meetings of such board.

August 5, 1949

8/10/49

Honorable Christian F. Stipp
Prosecuting Attorney
Carroll County
Carrollton, Missouri

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Dear Sir:

In reply to your letter of August 2, 1949, requesting an opinion of this department, which reads as follows:

"When members of the County Court in Counties of the third class meet as members of the Board of Equalization, but not as a County Court, are they entitled to mileage in traveling to and from such meeting of the Board of Equalization."

The statutes now in effect relating to compensation and mileage allowance of judges of the county court of third class counties are sections 2494.3 and 2494.4, Mo. R.S.A. (L 1945, p. 1538), which provide as follows:

Sec. 2494.3

"In all counties of the third class in this state, the judges of the county court shall receive for their services the sum of ten dollars per day for each of the first five days in any month that they are necessarily engaged in holding court and shall receive five dollars per day for each additional day in any month that they may be necessarily engaged in holding court, and shall receive five cents per mile

for each mile necessarily traveled in going to and returning from the place of holding county court. The per diem compensation herein fixed shall be paid at the end of each month and the mileage compensation shall be paid at the end of each month on presentation of a bill, by each of the respective county judges setting forth the number of miles necessarily traveled: provided, however, that this increase in compensation shall not become effective during any county judge's present term of office."

Sec. 2494.4

"In addition to the compensation provided in Section 1 of this act, the judges of the county court in counties of the third class shall receive five dollars per day for each day they shall act as members of the county board of equalization."

Section 2494.3 Mo. R.S.A. stipulates the rate of compensation to be allowed to judges of the county court and a part of this compensation is a mileage fee to be received "for each mile necessarily traveled in going to and returning from the place of holding county court." The words appearing in section 2494.4 Mo. R.S.A., "In addition to the compensation provided in section 1, of this act" (i.e. Section 2494.3 Mo. R.S.A.), cannot be interpreted to mean "in addition to part of the compensation allowed", (i.e. the per diem compensation only), but must refer to the entire compensation allowed, (i.e. both the per diem and the mileage allowance), and can only be interpreted to mean that in addition to the total compensation allowed to judges of the county court while holding county court, they shall be allowed additional compensation of five dollars per day while acting as

members of the county board of equalization.

Applying the rule of statutory construction, which states that the intent of the legislature must be ascertained and given effect, we can find no intention on the part of the General Assembly to allow any mileage fee to members of the county court while acting as members of the county board of equalization. Section 2494.3, Mo. R.S.A. provides a mileage fee "for each mile necessarily traveled in going to and returning from the place of holding court," and it seems clear and unambiguous that no such fee is provided to judges of the county courts while acting as members of the county board of equalization for travel to or from the meetings of such board.

CONCLUSION.

The members of the county court in counties of the third class are not entitled to a mileage fee while acting as members of the county board of equalization for travel to, or from the meetings of such board.

Respectfully submitted,

JOHN E. MILLS,
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APPROVED:

J. E. TAYLOR
Attorney General

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