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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

November 10, 1983

FILE NO. 83-023

COMPENSATION:
Mileage Allowance for
County Board Members

Honorable Bruce W. Black
State's Attorney of Tazewell County
Courthouse
Pekin, Illinois 61554

Dear Mr. Black:

I have your letter in which you inquire whether existing statutes permit mileage allowances to be paid to county board members when no expenses have been incurred. You also inquire whether, in the event that mileage allowances can be paid to county board members even though no expenses have been incurred, the county board resolution and policy cited in your letter authorize such allowances. For the reasons hereinafter stated, it is my opinion that the mileage allowances in question cannot be paid unless expenses are actually incurred.

Honorable Bruce W. Black - 2.

Because of my answer to your first question, it is not necessary that I respond to your second question.

Compensation for official services rendered in behalf of the State or any public corporation rests wholly upon statutory provision or authority. (Sprinkle v. County of Cass (1930), 340 Ill. 382, 383.) Section 25.02-2 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1981, ch. 34, par. 403-2), to which you refer, authorizes county boards:

"To reimburse the chairman and other members of the county board for travel and other expenses necessarily incurred while in the conduct of the business of the county.

* * *

"

(Emphasis added.)

I agree with your conclusion that the words "necessarily incurred" modify both "travel [expenses]" and "other expenses". Where several words are followed by a clause as much applicable to the first and other words as to the last, the clause should be read as applicable to all. (Porto Rico Railway, Light & Power Company v. Mor (1920), 253 U.S. 345, 348, 64 L.Ed 944, 945-6, 40 S.Ct. 516, 518; Wholesale Tobacco Dealers Bureau of Southern California, Inc. v. National Candy & Tobacco Co. (S.Ct. Cal. 1938), 82 P.2d 3, 17.) The phrase "necessarily incurred" is self-explanatory. Webster's Third New International Dictionary 1146 (1981) defines "incur" as

Honorable Bruce W. Black - 3.

"become liable or subject to". If county board members do not actually "incur" or "become liable" for mileage expenses, it is clear that the statute does not authorize mileage allowances by the plain language of section 25.02-2 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1981, ch. 34, par. 403-2). The plain meaning of the language used is always the safest guide to follow in construing an Act. Hagen v. The City of Rock Island (1960), 18 Ill. 2d 164, 179.

You refer to opinion No. F-1518, issued January 14, 1966 (1966 Ill. Att'y Gen. Op. 35), in which Attorney General Clark construed a previous statute to allow payment of a mileage allowance without regard to the actual expense incurred. Section 39 of "AN ACT concerning fees and salaries, * * *" (Ill. Rev. Stat. 1965, ch. 53, par. 58), the statute construed in opinion No. F-1518, has since been repealed. Consequently, it is my opinion that the advice given in that opinion is no longer applicable.

In conclusion, I am of the opinion that county board members should not be paid mileage allowances if they did not actually incur such expenses.

Very truly yours,


A T T O R N E Y G E N E R A L