

## Opinion No. 46-4919

July 2, 1946

**BY:** C. C. McCULLOH, Attorney General

**TO:** C. R. Sebastian State Comptroller Santa Fe, New Mexico

{\*244} On April 22, 1946, you requested an opinion but in some manner the request was either not received or was lost in this office, and you have submitted a copy of the request, dated July 1, 1946. You inquire whether the Contractors' Licensing Board may pay witness fees in the sum of \$ 10.00 per day plus mileage and per diem.

Section 51-1912 of the 1945 Supplement to the 1941 Compilation authorizes the said board to issue subpoenas for the attendance of {\*245} witnesses and the production of books, papers and records. However, this section makes no provision for the amount to be paid for witness fees.

Section 20-104 of the 1941 Compilation is a general statute covering witness' fees for attending any district court, referee, clerk or commission. The Contractors' Licensing Board would undoubtedly fall under the classification of "commission" under this section. Such fees are \$ 1.00 per day where the witness resides within the county, and \$ 2.00 per day where the witness resides outside the county where his testimony is required, and 5c per mile for each mile travelled in going to and returning from the hearing. This section would govern the amount of witness fees and allowances for ordinary witnesses. If the board requires the services of an expert witness, a greater amount could only be paid to him in the event that his services are hired and he is paid as a temporary employee of the board.