

OFFICIAL OPINION NO. 69-23, Overtime payments for county road employees

STATE OF SOUTH DAKOTA
OFFICE OF
THE ATTORNEY GENERAL

February 27, 1969

The Honorable Ira Elwood
South Dakota State Representative
Batesland, South Dakota 57716

OFFICIAL OPINION NO. 69-23

Overtime payments for county road employees

Dear Representative Elwood:

You have asked our department for an official opinion as to whether or not "X" County is required to pay its road employees time and one-half for overtime. At the present time the employees are paid a straight hourly wage no matter how many hours they work. There is no written contract of employment with these employees.

In my opinion the answer to your question is NO.

The South Dakota law regulating hours, applies only to women and children under sixteen. SDC 17.0601 provides that these employees may not work for more than ten hours a day or fifty-four hours in any week. There is no provision in the South Dakota law that requires time and one-half after an eight hour day.

The Federal law, 29 USCA 207, does provide for extra wages after a forty hour work week. However, employees working for a state, or political subdivisions of a state are exempted from this provision, 29 USCA 203 (d). Accordingly, there is no law which makes it mandatory for a county to pay time and a half for overtime work of its employees.

Respectfully submitted,

Gordon Mydland
Attorney General