

Your question is answered in the negative.

Public officers may be required to perform official duties without compensation. Generally they have no legal claim to compensation for services rendered except to the extent provided by law. Attorney General Opinion 067-44. When no compensation is statutorily provided, the service is deemed to be gratuitous. *State v. Fussell*, 24 So.2d 804 (Fla. 1946); *Bradford v. Stoutamire*, 38 So.2d 684 (Fla. 1949); *Pridgeon v. Folsom*, 181 So.2d 222 (1 D.C.A. Fla., 1965).

Sections 167.433-167.435, F. S. 1971, enacted by Ch. 69-54, Laws of Florida, divested the municipalities of their tax assessing and tax collecting functions and transferred those functions to the county. Therefore, these are no longer municipal functions, unless specifically reserved under Ch. 69-54, *supra*, but are county functions. *City of Belle Glade v. McGehee*, 244 So.2d 425 (Fla. 1971). Pursuant to §167.437, F. S., 1971, repealed by Ch. 72-368, Laws of Florida, the municipalities were authorized to compensate the several county tax assessors and collectors for services rendered and were required to negotiate a contract for such compensation. *City of Belle Glade v. McGehee*, *supra*; AGO 071-377.

Section 167.437, F. S. 1971, having been repealed, there is no longer any statutory requirement that the county tax assessors and collectors be compensated by the municipalities for performing a function that is no longer a municipal function but a county function. Therefore, any contract entered into prior to the repeal of §167.437, F. S., can no longer be enforced because of subsequent failure of consideration on which it was based. [See] 7 Fla. Jur. *Contracts* §39; *cf.* 7 Fla. Jur. *Contracts* §48.

Section 192.091, F. S. 1971, was enacted by Ch. 4322, 1895, Laws of Florida, and provides for the compensation of county tax assessors and collectors for the assessing and collecting of taxes for the county, school board, taxing districts, and flood control or water management districts. Section 192.091 does not contemplate the inclusion of municipalities within the phraseology of "taxing district." See Art. VII, §9(b), State Const. The defined taxing entities expressed in §192.091 are exclusive in nature, setting forth only counties and taxing districts not created under Ch. 378, F. S. 1971. A municipality differs in many aspects, one of which is its general governmental powers, from that of restricted or special taxing districts contemplated by such terms within §192.091. See §§180.01 and 180.02, F. S.; *cf.* Ch. 378; 23 Fla. Jur. *Municipal Corporations* §§3, 5, 49, and 62.

073-78—March 23, 1973

PUBLIC DEFENDER

REPRESENTATION IN MUNICIPAL COURTS

To: James A. Gardner, Public Defender, Sarasota

Prepared by: Richard W. Prospect, Assistant Attorney General

QUESTION:

Does a public defender have the authority to represent an indigent person charged with a violation in a municipal court?

SUMMARY:

A public defender has no authority to represent an insolvent person in municipal court proceedings.

The authority of a public defender to represent persons charged with crimes is conferred by the following provision of §27.51(1), F. S., as amended by Ch. 72-722, Laws of Florida:

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