

073-326—September 6, 1973

PUBLIC OFFICERS

REIMBURSEMENT FOR OFFICE EXPENSE

*To: David Emerson Bruner, Collier County Attorney, Naples**Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

Is a justice of the peace entitled to compensation for storing and safekeeping the records of his office?

SUMMARY:

A claim by a justice of the peace for compensation for the "storing and safekeeping" of the records of his office should be denied by the board of county commissioners, no legal basis for such claim having been made to appear.

It is well settled that public officers have a claim for services rendered only when the law provides compensation—the services being deemed gratuitous otherwise. *Rawls v. State*, 122 So. 222 (Fla. 1929); *State ex rel. Landis v. Reardon*, 154 So. 868 (Fla. 1934); *Gavagan v. Marshall*, 38 So.2d 862 (Fla. 1948). Presumably, the salary provided by law for public officials is intended to compensate them for their services in carrying out their statutory responsibilities; and the duty of a justice of the peace to keep records of the causes brought before him was expressly provided by law, §37.15, F. S. 1971. Chapter 59-769, Laws of Florida, fixing the salary of the justice of the peace of Collier County and making him a budget officer similar to the Sheriff of Collier County, was declared unconstitutional by the Florida Supreme Court in *Hancock v. Sapp*, 225 So.2d 411 (Fla. 1969); and, in any event, it would appear that the items budgeted for office expense in each fiscal year would have included amounts allocable to employees' services and office space necessary to perform his statutory duty in this respect. *Cf. AGO 061-40*, in which it was said that:

The power of the sheriff to make expenditures from office funds is limited by his office budget and the above mentioned statutes. The obligation of the sheriff's office, as a public agency, is limited by the office budget and expenditures may not be made therefrom unless provided for in the office budget, and then only to the extent and as authorized.

No legal basis for the claim in question having been shown, the county commissioners should not appropriate county funds for the payment thereof.

073-327—September 7, 1973

TAXATION

COUNTY MAY TAX PROPERTY WITHIN MUNICIPALITY
FOR COUNTY PURPOSE*To: Donald J. Seps, City Attorney, Ormond Beach**Prepared by: Stephen E. Mitchell, Assistant Attorney General*

QUESTION:

May Volusia County validly levy an ad valorem tax upon real property located within the city limits of the City of Ormond Beach for