

March 5, 1981

OPINION LETTER NO. 80
Answer by letter-Allen

Dr. James F. Antonio
State Auditor
State Capitol Building
Jefferson City, MO 65101

FILED
80

Dear Dr. Antonio:

This letter is in response to your questions asking whether the county collector in a nontownship county is entitled to a commission for collecting payments in lieu of taxes received from the Missouri Conservation Commission and in a township county who, if anyone, is entitled to a commission for collecting the grants in lieu of taxes received from the Missouri Conservation Commission.

The facts appears to be that on November 4, 1980, Constitutional Amendment No. 4 was approved by the voters of Missouri. This is currently Art. IV, § 43(b), Mo. Constitution. The amendment provides for payment by the Missouri Conservation Commission to be made to counties in lieu of taxes on Commission lands and forest croplands for distribution to the appropriate political subdivisions.

The constitutional amendment, as above cited, does not create a tax. All properties of the state are exempt from taxation. Moreover, public officers are not entitled to a fee or compensation unless it is provided in the statutes of the state. See, Gammon v. Lafayette County, 76 Mo. 675 (1882); King v. Riverland Levee Dist., 218 Mo.App. 490, 279 S.W. 195 (St.L. 1926); Becker v. St. Francois County, 421 S.W.2d 779 (Mo. 1967). The right of a public officer to fees is derived from the statutes. When the statute fails to provide a fee for his services, he is required to perform as a public officer and he has no claim on the state for compensation therefor. A public officer claiming compensation for official duties must point out the statute authorizing such payment. Nodaway County v. Kidder, 344 Mo. 795, 129 S.W.2d 857 (1939). We find no provision for payment of a commission or fee for collecting the payment by the Missouri Conservation Commission in lieu of taxes. Therefore, it appears to us that there is

Dr. James F. Antonio

no basis for any officer in any county to receive a commission on the payments in lieu of taxes that have been made to the counties pursuant to Art. IV, § 43(b), Mo. Constitution.

Yours very truly,

A handwritten signature in cursive script that reads "John Ashcroft". The signature is written in black ink and is positioned above the typed name and title.

JOHN ASHCROFT
Attorney General