



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

May 13, 1976

FILE NO. S-1089

REVENUE:
Fee For Collecting
Drainage District Taxes

Honorable A. Randolph Comba
State's Attorney
Bureau County
Room 200 - Court House
Princeton, Illinois 61356

Dear Mr. Comba:

This responds to your request for an opinion as to whether the county treasurer can constitutionally collect from a drainage district fees for performing his duties as treasurer of the drainage district and as collector of the drainage district. Sections 4-36 and 4-37 of the Illinois Drainage Code (Ill. Rev. Stat. 1975, ch. 42, pars. 4-36 and 4-37) provide that the county treasurer, who is also ex-officio county collector, shall receive fees for those services in

Honorable A. Randolph Comba - 2.

the amount of 1% of the funds paid out by him and 1% of the funds collected by him on any original or additional assessment, and 2% of any maintenance assessment. Neither his fee as treasurer nor collector shall exceed \$600.

Section 9(a) of article VII of the Illinois Constitution of 1970 provides in part that: "Fees shall not be based upon funds disbursed or collected, nor upon the levy or extension of taxes". It is clear that under this constitutional provision the method for determining the fees under discussion is unconstitutional. I have so advised in similar situations. See opinions No. S-347 (1971 Ill. Att'y. Gen. Op. 100); No. NP-396, issued February 2, 1972, and No. NP-418 issued March 13, 1972. See also Bd. of Trustees of Jr. College Dist. v. Webb, 24 Ill. App. 3d 183.

Very truly yours,

A T T O R N E Y G E N E R A L