

**Opinion No. 91.****State Soil Conservation Committee,  
Compensation of members of—Ex-  
Officio Officers.**

**Held:** All members of the soil conservation committee are entitled to compensation of five dollars per day while in attendance at meetings with the exception of the director of the state agricultural experiment station, the director of the state extension service and the commissioner of the State Department of Agriculture who are the only ex-officio members.

July 19, 1943.

Mr. J. E. Norton, Chairman  
State Soil Conservation Committee  
Bozeman, Montana

Dear Mr. Norton:

You have requested my opinion concerning the compensation to be paid for each day's attendance of members of the state soil conservation committee for service on the committee.

Section 4, Chapter 72, Laws of 1939, provides:

"There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state soil conservation committee. The state soil conservation committee shall consist of seven (7) members. The following shall serve as members of the committee: The director of state agricultural experiment station at Bozeman, Montana; the director of the state extension service at Bozeman, Montana; one member of the

state grazing commission designated by that commission; one member of the water conservation board designated by that board and the commissioner of the state department of agriculture. Two (2) additional farmer members shall be chosen by the governor, one from each of a group of five (5) to be submitted by each of the two (2) leading farm organizations. . . . Ex-officio members of the committee shall receive no compensation for their services on the committee. Other members of the committee shall receive five dollars (\$5.00) per day while on duty."

It is apparent the director of the state agricultural experiment station, the director of the state extension service and the commissioner of the State Department of Agriculture are ex-officio members of the committee as they are members by virtue of their offices and therefore under Section 4, Chapter 72, Laws of 1939, are not entitled to compensation for their services on the committee.

The two farmer members would be entitled to \$5.00 per day in attendance at the meeting. But the member to be designated by the state grazing commission and the member to be named by the Water Conservation Board offer another problem and their right to the compensation is not as clear.

Under the provisions of Section 349.3, Revised Codes of Montana, 1935, a member of the Water Conservation Board receives compensation of \$10.00 per day "for each day actually engaged in the performance of the duties of his office."

Section 6, Chapter 208, Laws of 1939, of the Grass Conservation Act provides:

"The members of the commission shall receive no compensation for their services but shall be allowed their actual expenses while attending meetings, such expenses to be audited, allowed and paid as herein provided."

That portion of Section 4, Chapter 72, Laws of 1939, which provides that ex-officio members are to receive no compensation has as its purpose the elimination of double remuneration for those members of the state soil conservation committee who are otherwise paid a salary by the state and whose work on the committee is related to and in conjunction with their regular

office. Such reasoning does not apply to the two members, one of whom is appointed by the state grazing commission and the other appointed by the Water Conservation Board, as they receive no regular salary and their attendance at the meetings of the soil conservation committee would involve a personal sacrifice.

It is not possible to classify the two members, one each from the state grazing commission and the Water Conservation Board as ex-officio members as they must be selected by the members of their organizations and are not by virtue of any office they hold automatically members of the state soil conservation committee.

It is therefore my opinion that all members of the soil conservation committee are entitled to compensation of five dollars per day while in attendance at meetings with the exception of the director of the state agricultural experiment station, the director of the state extension service and the commissioner of the State Department of Agriculture who are the only ex-officio members.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General