

It must be assumed that the Legislature of this state must know the plain and ordinary meaning of words and that the word "may" when given its ordinary meaning, denotes a permissive term rather than the mandatory connotation of the word "shall."

Clearly, the legislature intended that there were to be two methods for the establishment of a housing authority—one at the discretion of the governing body and the other mandatory. However, it is my opinion that the determination of the need for a housing authority or the lack of any need therefor—rather than the passage of a resolution—is made mandatory by §421.04(1) (b), *supra*. Upon receipt of such petition signed by twenty-five residents, the governing body by appropriate mode of action must determine whether there is such a need. The petition itself should allege that the conditions described in §421.04(2) (a) or (b), *supra*, exist. Then the governing body must determine if these conditions do, in fact, exist.

Further proof for such a conclusion is found in the language of §421.04(3), F. S., which says in part that:

Such resolution . . . shall be sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms . . . that either or both of the above enumerated conditions exist in the city. . . .

Therefore, the governing body can refuse to pass the resolution affirmatively declaring that there is a need for a housing authority if it determines that the conditions enumerated in §421.04(2) (a) or (b), *supra*, do not exist. This is so even when the governing body receives the proper petition under §421.04(1) (b), *supra*.

073-308—September 4, 1973

#### UNIVERSITIES

##### EXTENSION OF FEE DEADLINE FOR VETERANS NOT APPLICABLE TO COMMUNITY COLLEGES

To: Thomas H. Johnson, Senator, 28th District, West Palm Beach

Prepared by: Victor Walsh, Assistant Attorney General

#### QUESTION:

Does the benefit of Ch. 73-184, Laws of Florida, waiving registration fee deadlines for veterans attending institutions in the "state university system," run to those veterans attending public junior colleges?

#### SUMMARY:

Chapter 73-184, Laws of Florida, providing a 60-day waiver of registration fee deadlines for veterans attending institutions within the "state university system," does not apply to veterans attending community colleges.

Chapter 73-184, *supra* [§240.052(4), F. S.], was a legislative response to the hardships veterans often faced in having to satisfy their registration fees several months before they received their first federal veterans' educational benefits checks. Accordingly, under this act, a veteran availing himself of the educational benefits provided by Ch. 34 or Ch. 35 of Title 38 U.S.C. in attending "any institution within the state university system, shall have an additional sixty (60) days after any period otherwise provided during which he may make timely payment of registration fees for such program."

The act addresses itself only to those veterans attending institutions "within the state university system." It was added as subsection (4) of §240.052, F. S., which vests in the board of regents the authority to adopt regulations concerning the admission of and fees for students in the state university system. Section 239.01, *id.*, defines the "state university system" to include the Florida Board of Regents of the Division of Universities of the Department of Education and the specifically-named four-year institutions under the control of the board of regents. The junior colleges (or community colleges, as they are now called) of this state are not under the control of the board of regents. Under §§230.7535 and 230.754, F. S., community colleges are operated by district boards of trustees, subject to regulations prescribed by the state board of education; and under §230.761(2), *id.*, "[f]ees may be charged to students attending a community college only as authorized by and pursuant to regulations of the state board [of education]."

The fact that the "state university system" does not include the junior or community colleges is additionally demonstrated by paragraphs 228.041(1)(b) and (c), F. S., which are part of the definitions section of the Florida School Code. There, the community colleges are characterized as those institutions operated by district boards of trustees and which offer courses of instruction "parallel to that of the first and second years of work in institutions in the state university system." Institutions of higher learning are defined as those "state supported educational institutions offering work above the public school level, *other than community colleges.*" (Emphasis supplied.) See also §§230.7591 and 230.7681, F. S. (added by Ch. 73-338, Laws of Florida), authorizing the State Board of Education to prescribe, by regulation, the content and custody of limited access records which a community college may maintain on its students and employees. The 1973 act added similar provisions authorizing the board of regents to prescribe such regulations as to the records of the students and employees in the state university system.

When the terms used in a statute have acquired a fixed legal meaning, the legislature in using such terms must be presumed to have been fully aware of the impact of the use of such terms. *Abenkay Realty Corp. v. Dade County*, 185 So.2d 777 (3 D.C.A. Fla., 1966). In *Tamiami Trail Tours v. Lee*, 194 So. 305, 306 (Fla. 1940), it was stated that "there is a presumption that the legislature, in enacting a statute, acted with full knowledge of existing statutes, relating to the same subject."

In light of the above authorities and in view of the settled meaning of "state university system," as used throughout the Florida Statutes dealing with education and public educational institutions, it cannot be said with any degree of certainty that the legislature intended to include community colleges within the purview of Ch. 73-184, *supra*; and pending judicial or legislative clarification, your question can only be answered in the negative.

It should be noted that Public Law 92-540 added 38 U.S.C. §1780 to the laws relating to veterans. In part, this section provides for advance payment of the veterans' educational allowances "for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month." From this, it may be seen that although Ch. 73-184, *supra*, did not do all that it was perhaps intended to do, the problem has substantially been obviated by the parallel federal response.

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#### SPECIAL DISTRICTS

#### LIMITATIONS ON POWER TO ACQUIRE PROPERTY

To: Tom Gallen, Senator, 24th District, Bradenton

Prepared by: Sharyn Smith, Assistant Attorney General