

073-383—October 10, 1973

PUBLIC EMPLOYEES

COMPENSATION FOR EMPLOYEES TRANSFERRED TO COUNTY PAYROLL WHEN MUNICIPAL AND COUNTY COURTS MERGED

To: *James F. Taylor, Jr., Clerk, Circuit Court, Tampa*

Prepared by: *Stephen F. Dean, Assistant Attorney General*

QUESTION:

Does §112.0515, F. S., or any other law, require a county to continue to pay an employee who was employed by a municipal court prior to its merger with the county court a salary equal to the full annual city compensation formerly paid to him, including longevity bonuses, or must a portion of the employee's longevity bonus be excluded to the extent that the bonus portion of the salary exceeds the authorized county compensation for the job classification to which the employee will be transferred?

SUMMARY:

In the absence of a provision in the county position classification and pay plan providing for prior service credit and longevity bonus as a part of the annual compensation or salary of employees for public employment outside the county system, neither §112.0515, *supra*, nor any other provision of general law would require the county to pay municipal court employees who, upon abolishment of a municipal court, become county employees, a longevity bonus as part of the annual compensation or salary of such employees, or to continue to compensate such employees on the basis prescribed by the pay plan of their former employer; and such employees should be compensated as provided for in the county position classification and pay plan and paid by the county in accordance with the budget of the clerk of the county court as approved and adopted by the board of county commissioners.

It is assumed that there is no provision in the county position classification and pay plan which would provide for prior service credit and "longevity bonuses" for public employment outside the county system.

Section 112.0515, F. S., provides as follows:

It is hereby declared to be the policy of this state that in any consolidation or merger of governments or the transfer of functions between units of governments either at the state or local level or between state and local units the rights of all public employees in any retirement or pension fund shall be fully protected. No consolidation or merger of governments or governmental services, either state or local, accomplished in this state shall diminish or impair the rights of any public employee in any retirement or pension fund or plan which existed at the date of such consolidation or merger and in which the employee was participating, nor shall such consolidation or merger result in any impairment or reduction in *benefits* or other pension rights accruing to such employee. (Emphasis supplied.)

Assuming *arguendo* there was a consolidation or merger of the two court systems, the longevity bonus paid by the city in the past to the employees of its court appears to be a portion of the annual compensation or salary of certain qualified employees, which is paid in a lump sum annually. Whether such salary is a "benefit" which is retained by the employee would depend upon whether

§112.0515, *supra*, as enacted by Ch. 72-210, Laws of Florida, would prevent the diminution or impairment of annual compensation or salary of public employees in the event of a consolidation or merger of the two court systems or transfer of functions between the two courts (or governments or governmental functions).

The only language contained in §112.0515, *supra*, which could relate to compensation or salaries is the portion emphasized above. With the exception of the emphasized portion, the remainder of the provision cited above relates solely to retirement or pension rights. Upon careful analysis of the statutory language it would appear that the word benefits is used in the context of a retirement benefit since the term as used is followed by the phrase "or other pension rights." See 30 Fla. Jur. Statutes §108.

If some question continues to exist regarding the meaning of the term benefits, then the title of the bill can be examined to see if salary and compensation rights are part of the subject matter and could be included in the meaning of the term benefits. *State v. Yeats*, 77 So. 771 (Fla. 1928), *appeal dismissed* 268 U.S. 877(1928). *Foley v. State ex rel. Gordon*, 50 So.2d 179 (Fla. 1951).

The title of Ch. 72-210, *supra*, provides as follows:

An Act relating to public employees; providing that the *retirement and pension rights* of a public employee shall not be diminished or impaired as a result of any consolidation or merger of governments or of governmental services, either state or local; establishing state policy with respect to public employee *pension rights* when such mergers or consolidations occur; providing an effective date. (Emphasis supplied.)

Reference to the title of the act, as quoted above, reveals no reference therein to compensation or salary. Accordingly, I conclude that §112.0515, *supra*, has no applicability to the salary or compensation of employees affected by a consolidation or merger and that the term benefits relates solely to the retirement or pension rights of such employees.

The rate of compensation or salary paid a public employee is established by the employer as authorized by law. In the instant situation there is no provision of general law establishing or fixing the rate of compensation or salary of the employees of the office of clerk of the county court.

Because the longevity bonus is a part of the annual compensation or salary of the affected employees and Ch. 72-210, *supra*, does not apply to such compensation or salaries, but only to retirement or pension rights and benefits, and because the general law is silent as to the rate of compensation or salaries and mode of payment thereof to the affected employees, accordingly, such employees' compensation or salaries would be established under the county position classification and pay plan and paid by the county in accordance with the budget of the clerk of the county court as approved and adopted by the county commissioners. In the absence of provisions for a longevity bonus, such employees would not be entitled to it pursuant to Ch. 72-210, now §112.0515, *supra*, or any other provision of general law.

073-384—October 12, 1973

CONFLICT OF INTEREST

DIRECTOR OF STATE FINE ARTS COUNCIL SERVING AS
PRESIDENT OF PRIVATE NONPROFIT CORPORATION

To: Richard (Dick) Stone, Secretary of State, Tallahassee

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General