

73-173, *supra*), will take a decrease in their total annual compensation under the 1973 act, the italicized provision confirms that the effective date of the salary changes will be October 1, 1973, for all the officials, whether fee or budget officers. Similarly, the second-year increases or decreases—including changes to reflect a change in the cost-of-living index or in the population of the county—will take effect on October 1, 1974.

I have not overlooked the fact that in AGO 069-68 my predecessor in office construed the 1969 Uniform County Officials' Salary Act as requiring the salary increases therein prescribed to take effect as of January 1, 1969, for fee officers, who at that time operated on a calendar-year basis. He relied in part upon a similar ruling in AGO 058-57. But in that opinion it was noted that "[i]n each case the paramount rule of statutory construction is to ascertain the legislative intent. . . . To this extent each act of the legislature must be interpreted separately and individually." And in view of the provisions of the 1973 act referred to above, it cannot be inferred, as it was in the opinions of my predecessors, that the legislative intent was "to increase the salary of a fee officer for the entire year even though the act did not become effective until the middle of the year."

073-332—September 10, 1973

#### STANDARDS OF CONDUCT

#### SCHOOL BOARD MEMBER EMPLOYED AS ATTORNEY FOR COUNTY COMMISSION

*To: County School Board Member*

*Prepared by: Victor Walsh, Assistant Attorney General*

#### QUESTION:

May an elected county school board member accept the county commissioners' offer of a part-time position as attorney for the commission?

#### SUMMARY:

An elected county school board member may accept part-time employment under §125.01(1)(b), F. S., as counsel to the county commission in the absence of any provisions in the School Code prohibiting such employment. He should refrain from any participation as counsel in those occasional dealings between the county commission and the school board.

My predecessor in office noted in AGO 069-3 that mere "employments are not within the purview and intention of subsection (a) of §5, Art. II of the State Const." The Constitution does not define "office" or "officers" but traditionally,

The term "office" implies a delegation of a portion of sovereign power to, and the possession of it by, the person filling the office, while an employment does not comprehend a delegation of any part of the sovereign authority. The term "office" embraces the idea of tenure, duration, and duties in exercising some portion of the sovereign power, conferred or defined by law and not by contract. [State v. Sheats, 83 So. 508 (Fla. 1919). *Accord*: Attorney General Opinion 069-2.]

AGO 071-263 held that an assistant state attorney was not an officer for the purposes of the aforementioned prohibition; and AGO 071-347 held that an attorney retained by the county under §125.01(1)(b), F. S., was not an officer and thus not within the purview of the "resign-to-run" law, §99.012, F. S. Assuming

that your employment as a part-time attorney for the county commissioners would be of that nature, and in the absence of any prohibition in the School Code prohibiting employment by the county of school board members, AGO 071-347, *supra*, is controlling.

Section 112.313(6), F. S., which prohibits the acceptance of employment "which might impair . . . independence of judgment in the performance of . . . public duties" was stricken on constitutional grounds in *State v. Llopis*, 257 So.2d 17 (Fla. 1971). And it does not appear that your duties as a school board member would be incompatible with your duties as part-time county attorney under the common-law view of incompatibility discussed in AGO 070-46. Chapter 163, F. S., authorizes contracts between counties and school boards. Accordingly, as county counsel, albeit part time, you must scrupulously avoid any involvement in county dealings with the school board.

Section 112.313(2), F. S., reads:

(2) If an officer or employee of a state agency, or of a county, city, or other political subdivision of the state, or any legislator or legislative employee is an officer, director, agent, or member of, or owns a controlling interest in any corporation, firm, partnership, or other business entity which is subject to the regulation of, or which has substantial business commitments from any state agency, county, city or other political subdivision of the state, he shall file a sworn statement disclosing such interest with the department of state, if he is a state officer or employee, or if he is an officer or employee of a county, city, or other political subdivision of the state he shall file the sworn statement with the clerk of the circuit court of the county in which he is principally employed.

"Business entities" include professional firms. Attorney General Opinion 072-172. Your professional practice as an attorney is "subject to regulation" by the state. Accordingly, as a school board member, whether you accept the county position or not, you must file a sworn disclosure of your interest in your law firm.

Subject to the above qualifications, your question is answered in the affirmative.

073-333—September 10, 1973

#### TAXATION

##### ASSESSMENT OF PLATTED LANDS

To: John W. Seay, Flagler County Tax Assessor, Bunnell

Prepared by: William R. Cave, Assistant Attorney General and David M. Hudson,  
Legal Intern

#### QUESTION:

Should §195.062, F. S., Rule 12B-1.144, Florida Administrative Code, or AGO 072-255 be followed in preparation of the tax roll, inasmuch as there appears to be inconsistency in their provisions?

#### SUMMARY:

To the extent that Rule 12B-1.144, F.A.C., restricts the operation of §195.062(1), F. S., it must not be read as the exclusive method of complying with the statute and the statute is controlling. The opinion expressed in AGO 072-255 with regard to the application of §195.062, F. S., should be followed by the county assessors until said opinion is superseded by judicial decision or opinion.