

QUESTION:

May a business entity sell tires and other motor vehicle accessories to the county on state contract prices, during the period when a salaried officer of the business entity is serving temporarily as a member of the board of county commissioners of the county?

SUMMARY:

Under §112.314(1), F. S., a board of county commissioners may not transact business with a business entity whose officer is serving temporarily as a member of the board.

Section 112.314(1), F. S., provides as follows:

(1) No officer or employee of a state agency or of a county, city, or other political subdivision of the state shall transact any business in his official capacity with any business entity of which he is an officer, director, agent, or member or in which he owns a controlling interest.

As noted in AGO 073-328, this statute has been uniformly interpreted by my predecessor and me as prohibiting the public body of which an interested official is a member from transacting business with the business entity in which he has the described interest.

The purpose of the provision in question is to forestall any possibility of favoritism in the county's business transactions, including the purchase of goods and materials; thus, even though you are serving only temporarily as a member of the board and the equipment would be purchased at state contract prices, your position as an officer of the corporation would bring you within the purview of the law. Section 839.091, F. S., provides certain exceptions to the prohibition against the purchase of goods, supplies, or materials from any business entity in which a member of a city's or county's governing body is either directly or indirectly interested, in counties having a population of less than 100,000. However, no such exceptions nor any others are contained in §112.314(1), *supra*. Thus, so long as you are serving as a member of the board of county commissioners, the county should not enter into any business transactions with the business entity which you serve as a salaried officer.

Accordingly, your question is answered in the negative.

073-405—November 6, 1973

CENTREX TELEPHONE SYSTEM**USE OF CENTREX TELEPHONE SYSTEM BY COUNTY OFFICES**

To: Jack D. Kane, Executive Director, Department of General Services, Tallahassee

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

May county offices validly be included in the state Centrex telephone system under §287.25, F. S.

SUMMARY:

Under §287.25, F. S., the state's Capital Center Centrex telephone system may be utilized by Leon County for its county offices.

Pursuant to the authority of §287.25, F. S. (§22, Ch. 69-106, Laws of Florida,

the Governmental Reorganization Act), the Division of Communications of the Department of General Services has established a Centrex telephone communications service for state agencies in the Tallahassee exchange area (the Capital Center Centrex system), under an agreement with the Southeastern Telephone Company for the use of its facilities and equipment at rates and charges approved by the Florida Public Service Commission. The Board of County Commissioners of Leon County has requested that county offices be served from the Capital Center Centrex telephone system. The existing agreement with the telephone company, and the tariffs approved by the Florida Public Service Commission, appear to be applicable only to the service supplied to state agencies in this area; however, there appears to be ample *statutory* authority for county offices to utilize the state Centrex system.

Section 287.25, *supra*, authorizes the Division of Communications:

(18) To provide a means whereby political subdivisions of the state may utilize the state communications system upon such terms and under such conditions as the division may establish

And §287.26, *id.*, provides that any reference to "communications" or "communications systems" shall include "all facilities and equipment *owned, leased, or used* by all agencies and political subdivisions of state government." (Emphasis supplied.)

A county is, of course, a political subdivision of the state—both by definition, §1.01(9), F. S., and by tradition as an "arm" of the state, with the subordinate attributes of sovereignty in the performance of governmental functions at the local level. *See City of Tampa v. Easton*, 198 So. 753 (Fla. 1940). And since, by definition, a state communications system includes equipment and facilities *leased or used* by state agencies, I have the view that the state's Centrex system may validly be "utilized" by the county for its county offices.

Accordingly, your question is answered in the affirmative.

073-406—November 6, 1973

COURTS

EXPENSE OF HOUSING PRISONER NOT TAXABLE COST IN CRIMINAL PROSECUTION

To: Alfred T. Airth, City Attorney, Live Oak

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

May the charge of two dollars and fifty cents per day paid by the city to the sheriff for housing a city prisoner be taxed as costs upon conviction of such prisoner for violation of a city ordinance?

SUMMARY:

The charge of two dollars and fifty cents per day paid by a city to the sheriff for housing a city prisoner who has been charged with violating a municipal ordinance may not be taxed as costs upon the conviction of such prisoner in a county court for violation of the ordinance.

There is nothing in revised Art. V, State Const., nor in the statute implementing it, Ch. 72-404, Laws of Florida, to indicate that a municipality is to be relieved of its primary responsibility for paying the cost of enforcing its municipal ordinances when it abolishes its municipal court. And in AGO 072-259, in ruling that a city which has abolished its municipal court should continue to maintain security