

now legally consent to medical treatment. The fact that a person is living at home and is fully dependent upon his parents should have no effect on his legal capacity to consent to medical treatment.

073-301—August 23, 1973

MUNICIPALITIES

AMENDING OR REPEALING ORDINANCES UNDER MUNICIPAL HOME RULE POWERS ACT

To: W. W. Caldwell, Jr., City Attorney, Fort Lauderdale

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

Does §166.031(1), F. S. [created by Ch. 73-129, Laws of Florida], limit the governing body of a city from amending or repealing by ordinance provisions of the existing charter which by §166.021(5), F. S., are deemed to be ordinances?

SUMMARY:

Section 166.031(1), F. S., created by Ch. 73-129, Laws of Florida, does not limit the governing body of a city from amending or repealing by ordinance provisions of the existing charter which by §166.021(5), F. S., are deemed ordinances.

Chapter 73-129, Laws of Florida, effective October 1, 1973, is the Municipal Home Rule Powers Act. The sections of this act pertinent to a discussion of your question are as follows:

Section 166.021(4), F. S.:

... Provided, however, that nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extra-territorial powers or an area which includes lands within and without a municipality; or a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors, as provided in section 166.031. Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed.

Section 166.021(5), F. S.:

All existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality except as otherwise provided in subsection (4) of this section shall become an ordinance of that municipality on the effective date of this act, subject to modification or repeal as other ordinances.

Section 166.031(1), F. S.:

The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by ten percent (10%) of the registered electors, submit to the electors of said municipality a proposed

amendment to its charter, which amendment may be to any part or to all of said charter, except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

According to §166.021(4), any change in the laws enumerated therein requires a referendum of the electors of the municipality. The referendum is to take place "as provided in section 166.031, Florida Statutes." The purpose, therefore, of §166.031(1) is to describe the procedure under which such referendum may be held. Section 166.031(1) does not limit or prohibit the governing body of a city from amending or repealing by ordinance provisions of an existing charter which by §166.021(5) are deemed to be ordinances. The provisions of the charter which will automatically become ordinances do not include the areas which are specifically excluded by §166.021(4). The provisions enumerated in §166.021(4) remain, in effect, as part of the charter; and §166.031(1) provides the methods for amending these provisions of the city charter. It does not pertain to or affect the provisions which will become ordinances.

Your question is, therefore, answered in the negative.

073-303—August 31, 1973

STATUTES

RETROACTIVE EFFECT—PROPERTY ASSESSMENT ADMINISTRATION AND FINANCE LAW

*To: Robert Grafton, Counsel, Central and Southern Florida Flood Control District,
West Palm Beach*

Prepared by: Sydney H. McKenzie III, Assistant Attorney General

QUESTION:

Does Section 13 of Ch. 73-172, Laws of Florida [§200.065, F. S.], apply for fiscal year 1973-1974 (July 1, 1973 to June 30, 1974) to flood control and water management districts operating under the provisions of §378.28, F. S. 1971?

SUMMARY:

When the uniform property assessment and finance law indicates that it shall take effect on a specified date, the requirements set out in that act as to budget procedure are not applicable to the 1973-1974 fiscal year of special districts such as a special flood control and water management district which has fully complied with statutory budget procedures *mandated* for it and expressly requiring completion of a *final* budget prior to the effective date of the uniform property assessment and finance law.

Your question is answered in the negative.

The Central and Southern Florida Flood Control District was established by Ch. 25270, 1949, Laws of Florida, which provides, *inter alia*:

Section 3. . . . [T]he governing board of said district is hereby authorized to levy annually a uniform ad valorem tax on all property in the district as determined for county taxing purposes, not to exceed the amount necessary to provide the money determined to be necessary for