

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,  
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#### 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.

The relevant portion of §195.062, F. S., as most recently amended by §2, Ch. 73-172, Laws of Florida, provides:

The department [of revenue] shall prepare and maintain a current manual of instructions for assessors and other officials connected with the administration of property taxes. . . . *Such manual shall provide that platted lands unsold as lots shall be valued for tax assessment purposes on the same basis as any unplatted acreage of similar character until sixty (60) percent of such lands included in one plat shall have been sold as individual lots.* (Emphasis supplied.)

Pursuant to the statutory authority of §195.042, F. S., the Department of Revenue promulgated Rule 12B-1.144, Florida Administrative Code:

Lands which have been subdivided into lots by a duly recorded plat and *which remain unsold by the original subdivider* shall be valued for tax assessment purposes on the same basis as any unplatted acreage of similar character until sixty percent of such lands included in one plat shall have been sold as individual lots. *The conveyance of the lands included in any plat described by reference to the lot and block designations according to such plat shall be considered as sales of individual lots, regardless of [the number of lots included in] the conveyance.* (Emphasis supplied.)

The language contained in the brackets above appeared in the rule as approved by the cabinet sitting as the Department of Revenue; however, they were erroneously deleted when printed in the Florida Administrative Code. Portions of the above-quoted rule are italicized to indicate significant deviation from the language of §195.062, F. S.

Rules and regulations promulgated to carry into effect statutory provisions "must be consistent with those provisions and must not amend those provisions." *Florida Growers Coop. Transport v. Department of Revenue*, 273 So.2d 142, 144 (1 D.C.A. Fla., 1973). Additionally, the statutory provisions being paramount, rules and regulations may not operate to restrict the operative scope of the statutes. *See St. Joe Paper Company v. Brown*, 223 So.2d 311 (Fla. 1969), where it was held that administrative regulations governing assessment procedures could not be construed as providing an exclusive method of valuation, there being other methods not mentioned in the regulations but within the authority of the statutes. Rule 12B-1.144, F.A.C., must thus be considered as providing a method of applying the assessment procedures required by §195.062, F. S., but not *the* exclusive method.

In AGO 072-255, §195.062, F. S., was discussed, and it was my opinion that the plain language of that section permits platted lands which have been sold by metes and bounds description or by blocks or blocks and clusters of lots to be valued for tax assessment purposes as unplatted acreage of similar character until 60 percent of such lands included in one plat shall have been sold as individual lots. This office, like the county assessors and the Department of Revenue, is, of course, bound by the language of the statutes, and judicial interpretations thereof, in rendering legal opinions. Official opinions of this office: ". . . are the guide for state executive and administrative officers in performing their official duties, until such opinions are superseded by judicial decisions or opinions. . . ." *State v. State Board of Equalizers*, 94 So. 681, 686 (Fla. 1922).