

facilities to house prisoners charged with violations of municipal ordinances, or should enter into an agreement with the county to house such prisoners in the county jail, it was indicated that the fines and forfeitures assessed by a county court for violations of municipal ordinances tried in that court when its own court has been abolished and paid back to the city, monthly, are the funds from which the city's expenses in enforcing its ordinances are to be paid, including the cost of securing its prisoners. *Accord:* Attorney General Opinion 073-81.

As noted in AGO 073-100, the assessment of costs in a criminal case in a county court against a solvent convicted defendant

. . . is specifically provided for in Ch. 939, F. S., and the assessment and disbursement of said costs are provided for in §§34.041, 34.191 and 939.17. Sheriffs' costs previously permitted under the statutory authority of §30.23, F. S., can no longer be assessed as court costs or considered as a cost item in any manner.

I find nothing in the statutes referred to or any other statute that would indicate that the cost of housing municipal prisoners in the county jail is an allowable item of taxable costs. And it is well settled in this state that the recovery and allowance of costs in criminal cases "rest entirely on statutory provisions and no right to or liability for costs exists in the absence of statutory authorization." *Wood v. City of Jacksonville*, 248 So.2d 176 (1 D.C.A., Fla. 1971), and authorities cited. *Accord:* 62 C.J.S. *Municipal Corporations* §381, p. 726, as to proceedings for violation of municipal ordinances. Section 939.01, F. S., allows as taxable costs in criminal cases "the costs of prosecution . . . ." (Emphasis supplied.) And the provision of §34.191(3), F. S., authorizing the chief judge of the circuit to direct the county to "distribute reasonable court costs to the municipality" relates only to costs "of operation of the county court, including any cost of prosecution." It seems clear that this would not include any cost incurred by the city in housing its prisoners. Thus, in the absence of any statutory authorization, the cost of housing a prisoner may not be taxed as costs.

Your question is, therefore, answered in the negative.

073-407—November 7, 1973

## ELECTIONS

### POLITICAL COMMITTEES—DEFINITION; CONTRIBUTION LIMITS

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

Prepared by: Staff

### QUESTIONS:

1. Is a civic or business organization, such as a chamber of commerce, which supports a local candidate or issue, subject to the provisions of Ch. 73-128, Laws of Florida, as a "political committee" as set forth in §3, Ch. 73-128, or may it be considered as a "committee of continuous existence" as provided by §4, Ch. 73-128?
2. If such an organization has a group within its organization which supports a local candidate or issue, would such a group fall within either of the above categories?
3. If neither of the above groups or organizations falls within the above categories, would single or repeated endorsements and expenditures require that such committee be considered as coming within the scope of §3 or §4 of the act as either a "political committee" or a "committee of continuous existence"?

4. Is the parent organization, in supporting a subsidiary group, limited to the one thousand dollar ceiling on contributions to political committees?

**SUMMARY:**

A civic or business organization which supports a local candidate or issue and accepts contributions or makes expenditures in excess of five hundred dollars during a calendar year is a "political committee" as defined in §1(2) of Ch. 73-128, Laws of Florida [§106.011(2), F. S.].

A civic or business organization such as a chamber of commerce does not automatically become a "committee of continuous existence" pursuant to §4, Ch. 73-128 [§106.04, F. S.], simply by virtue of supporting a local candidate or issue. However, such an organization may seek certification as a committee of continuous existence if it so desires and if it qualifies therefor.

If a civic or business organization has a subsidiary group within its organization which supports a local candidate or issue, such a group would be a political committee as provided by §3, Ch. 73-128 [§106.03, F. S.]. The one thousand dollar limitation provided by §8, Ch. 73-128 [§106.08, F. S.], would be applicable to contributions from the parent group to such a subsidiary group only if such contributions are for the purpose of furthering the subsidiary's political activities.

**AS TO QUESTION 1:**

Chapter 73-128, Laws of Florida [§106.011(2), F. S.], defines a "political committee" as

. . . a combination of two (2) or more individuals, or a person other than an individual, the *primary or incidental purpose* of which is to support or oppose any candidate, issue, or political party or principle and which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of five hundred dollars (\$500). (Emphasis supplied.)

The act [§106.011(7), F. S.] defines "person" as

. . . an individual or a corporation, association, firm, partnership, joint stock company, club, organization, or other combination of individuals having collective capacity.

A civic organization certainly falls within the definition of person within the statute and, in addition, is "a combination of two (2) or more individuals." If an organization is engaged in the support or opposition of candidates or issues, it is fair to assume or conclude that such activity is one of the purposes of the organization, whether such activity may be characterized as "primary" or "incidental." It appears clear to me that the term "primary or incidental purpose" used within the definition of political committee was intended by the legislature to be all inclusive. The language of the statute manifests a legislative concern with the occurrence of support or opposition of any candidate, issue, political party, or principle, rather than with the frequency of such occurrence or the nature of the organization engaged in such occurrence. The statute expressly excludes certain organizations from the definition of political committee; namely, committees of continuing existence, as defined in the statute, political party committees, and corporations whose political activities are limited to contributions from corporate funds and which receive no contributions. See §1(2) of Ch. 73-128, *supra* [§106.011(2), F. S.]. The application of the rule of statutory construction known as *expressio unius est exclusio alterius* requires the conclusion that, other than these, there are no exceptions—except, of course, organizations which accept contributions or make

expenditures during a calendar year in an aggregate amount of less than five hundred dollars.

Section 4 of Ch. 73-128 [§106.04, F.S.], which defines "committees of continuous existence" does not automatically impose the designation of a committee of continuous existence upon any civic or business organization merely because it may support a local candidate or issue. Such an organization may seek certification if it so desires and if it meets the following criteria listed under §4 [§106.04(1)]:

(a) It shall have been in continuous existence for a period of at least two (2) years prior to filing an application with the division of elections pursuant to subsection (2);

(b) It must be organized and operated in accordance with a written charter or set of by-laws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(c) At least twenty-five percent (25%) of the income of such organization must be derived from dues and assessments payable on a regular basis by its membership and provisions for which are contained in the charter or by-laws.

AS TO QUESTION 2:

The answer to question 1 above applies equally to question 2.

AS TO QUESTION 3:

In light of the above answers, question 3 need not be answered.

AS TO QUESTION 4:

Section 8(1)(e) of Ch. 73-128, *supra* [§106.08(1)(e), F. S.], prohibits a person or political committee from making any contribution to a political committee "in support of or in opposition to an issue to be voted on in a countywide or districtwide election" in excess of one thousand dollars. A similar prohibition is contained in §8(1)(f), *id.* [§106.08(1)(f), F. S.], as to contributions to a political committee "supporting one or more candidates." I have no difficulty in concluding that the one thousand dollar restriction is applicable to contributions from a parent group to a subsidiary group whose political activities bring it within the definition of a political committee, when such contribution is made for the purpose of assisting the subsidiary group in financing its political activities in support of or in opposition to an issue, or in support of one or more candidates. However, there is nothing in the statute to indicate that the legislature intended to limit the amount of funds that a parent organization may contribute to a subsidiary for a purpose that has nothing to do with the subsidiary's political activities. In the absence, then, of any statutory limitation upon contributions for purposes other than the support of, or opposition to, an issue, or the support of a candidate or candidates, I have the view that a parent organization—or any other organization—may contribute funds in excess of one thousand dollars to a business or civic organization which has acquired the status of a political committee on account of its political activities, when such contribution has nothing to do with the political activities of the subsidiary. The question of whether such a contribution would be subject to the reporting requirements of §7 of Ch. 73-128, *supra* [§106.07, F. S.], is not presented and is not decided.