

under Ch. 205, F. S. (1972 Supp.), I am of the opinion that licensing of both the professional service corporation and the members or professional employees thereof is valid under St. Johns County Ordinance No. 72-2, adopted subsequent to the effective date of Ch. 72-306, Laws of Florida.

073-99—March 30, 1973

#### COUNTIES

##### ALLOTMENT OF OFFICE SPACE BY COUNTY GOVERNING BODY

*To: T. Edward Austin, General Counsel, Jacksonville*

*Prepared by: Bjarne B. Andersen, Jr., Assistant Attorney General*

#### QUESTION:

Does the City Council of the Consolidated City of Jacksonville have the authority to require the county's superintendent of schools, and his staff, to vacate the premises they presently occupy in the Duval County Courthouse?

#### SUMMARY:

The Council of the City of Jacksonville, as governing authority of Duval County, has the authority to require the county's superintendent of schools, and his staff, to vacate office space they presently occupy in the Duval County Courthouse.

According to information accompanying your request, the present Duval County Courthouse was constructed in accordance to certain plans and specifications which allotted occupancy of the fifth floor of said building for the county's superintendent of schools and his staff, and such designated areas are currently so occupied. As a result of the recent court reorganization under revised Art. V of the Constitution, the City Council of the Consolidated City of Jacksonville has determined that additional court facilities are required within the present courthouse and accordingly have, by resolution, notified the Duval County School Board that "on April 1, 1973, or as soon thereafter as is feasible" the present space on the fifth floor of the courthouse now occupied by the school superintendent and his staff shall be vacated. The city further, by resolution, is assuming responsibility to defray such moving expenses and resulting rental costs of the school board for the remainder of the city's 1972-73 fiscal year.

Under consolidation, the City Council of the City of Jacksonville succeeded to the authority of that formerly held by the Board of County Commissioners of Duval County. *Cf. Jackson v. Consolidated Government of City of Jacksonville*, 225 So.2d 497 (Fla. 1969).

Under the provisions of §230.29, F. S., the office of the superintendent of schools shall be located at the county seat. Initial responsibility to provide such superintendent with office space, heat, and light at the county seat is placed upon the board of county commissioners, or, as in the instant case, the Jacksonville City Council.

However, this particular authority carries with it a proviso that if in the event the commissioners *do not* provide the required office space, then the local school board may provide the necessary space as well as furniture, equipment, etc., it would have been required to furnish initially had the office space been provided by the board of county commissioners.

Notwithstanding that, it may be contended that in requiring the superintendent's office to be located at the county seat (§230.29, *supra*), and also initially authorizing the school board to hold its meetings at the county seat, it is not

mandatory that such offices or meetings be within the courthouse itself. *See* AGO's 061-86, 061-89, and 062-42.

The particular building at the county seat of a county which is designated as the "courthouse" is the usual and best facility for the holding of courts, even though such a facility per se will not be a factor in the validity of the court's proceedings. *Beville v. State*, 55 So. 854 (Fla. 1911).

The fact that office space may have been assigned to a particular county officer or governmental authority at the time that the courthouse was constructed, gives no continued or perpetual use of such office space to the particular officer or authority so that reassignment of such space is prevented at a subsequent date when the requirements of governmental services require a change in space allotments. *See* AGO 064-63.

The construction of a county courthouse is an essential governmental requirement of the county and the responsibility to furnish and equip certain space within a courthouse in a particular manner or for a particular purpose is a discretionary function of the governing authority of a county exercised pursuant to §125.01(1)(c), *F. S. Posey v. Wakulla County*, 3 So.2d 799 (Fla. 1941) and *Mathis v. Lovett*, 215 So.2d 490 (1 D.C.A. Fla., 1968); *See also* 8 Fla. Jur. *Counties* §§79 and 80.

I previously held in AGO 071-275 that the board of county commissioners has the sole responsibility for allocating the available office space within a courthouse and, in regard to this instant situation, I am of the opinion that the Jacksonville City Council has the sole responsibility to resolve the discretionary matters of courthouse office space allotments in order to meet the necessities of its county as the council sees them.

073-100—April 2, 1973

### COURT COSTS

#### CRIMINAL CASES UNDER CHAPTER 939, F. S.

*To: B. Paul Pettie, Jr., Broward County Court Judge, Fort Lauderdale*

*Prepared by: A. S. Johnston, Assistant Attorney General*

#### QUESTION:

What effect has subsequent legislation implementing revised Art. V, State Const., had upon the conclusions you rendered in AGO 072-60?

#### SUMMARY:

The constitutional and statutory changes made subsequent to the rendering of AGO 072-60 require updating to provide that all references to justice of the peace courts, criminal courts of record, county judges' courts, and county courts be construed to now mean the county court system as provided for in Ch. 34, F. S., as amended by Ch. 72-404, Laws of Florida. The assessment of costs in a criminal case 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. However, all other items of cost assessed still need to be itemized.

In updating AGO 072-60 your attention is directed to the fact that such