

shall be authorized by resolution or ordinance of the governing body” There is a uniform procedure for the passage of municipal ordinances set out in §166.041, F. S., which provides that the affirmative vote of a majority of a quorum shall be necessary to pass an ordinance. This section is “cumulative to other methods now provided by law.” However, §166.041(6) also provides that municipalities may specify additional requirements for the adoption or enactment of ordinances as long as the requirements of the general law are not lessened. Section 63 of the Mulberry Charter, which provides for an affirmative vote of three-fifths of the council members in order to authorize a bond issue, is more restrictive than the provision in §166.041(4) requiring the affirmative vote of a majority of a quorum. Although §166.041(6) also says that a municipality may provide for such additional requirements “by future ordinance or charter amendment,” it would seem foolish to require a municipality to reenact a provision already contained in its charter. Therefore, the city may, if it wishes, continue to follow its present procedure.

AS TO QUESTION 2:

Nowhere in §§166.101-166.141, F. S., the parts of Ch. 73-129, Laws of Florida, on municipal borrowing, is there mention of a referendum of the electorate being necessary to approve a bond issue except when required by the State Constitution; *i.e.*, if ad valorem taxes are to be used to finance the issue. Section 166.021 does have a provision for a referendum in certain circumstances—which circumstances do not include a bond issue. Therefore, it must be concluded that a referendum of the city electorate is not necessary to approve the financing of the new civic center building, but rather the city commission may approve it.

073-447—November 29, 1973

TAX ASSESSORS

ADDITIONAL SALARY FOR QUALIFICATION AS CERTIFIED ASSESSOR

To: J. Pierce Smith, Alachua County Tax Assessor, Gainesville

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

For what portion of the 1973 calendar year should a county tax assessor who has been certified under the Florida Certified Assessor Program prior to October 1, 1973, be paid his special qualification salary?

SUMMARY:

County tax assessors who became “certified Florida assessors” prior to October 1, 1973, may receive the special qualification salary provided by §145.10(2), F. S., beginning October 1, 1973.

Section 145.10(2), F. S. [added by the 1973 County Officers’ Salary Act, §8, Ch. 73-173, Laws of Florida], provides for a supplement to the tax assessors’ salaries, as follows:

(2) Special qualification salary shall be an additional two thousand dollars per year to each assessor who has met the requirements of the department of revenue and has been designated a certified Florida assessor. Any assessor who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary

based on the remaining period of the year. The department shall establish and maintain a certified Florida assessor program.

Prior to the adoption of the 1973 act, no additional compensation was payable to a tax assessor because of his certification. As noted in AGO 073-280, the new salary schedules for county tax assessors are those prescribed by Ch. 73-173, *supra*, the effective date of which was October 1, 1973. It was said also that the effective date clause of Ch. 73-173

. . . evidences a clear legislative intent that the Act was to take effect as of the date of its adoption, June 13, 1973, *insofar as the compensation to which county officials are entitled under existing laws is concerned*, and as of October 1, 1973, *insofar as the new salary schedules therein provided for county officials are concerned*. . . (Emphasis supplied).

Accord: Attorney General Opinion 073-330A, in which it was pointed out that the opinions in AGO's 069-68 and 058-57, relating to salary increases for county fee officers, were distinguishable on the facts.

It is well settled that statutes are always presumed to be intended to operate prospectively, and should never be construed as having a retrospective effect, unless their terms clearly show a legislative intention that they should so operate. *Schonfield v. City of Coral Gables*, 174 So.2d 453 (3 D.C.A. Fla., 1965), *cert. disch.* 183 So.2d 682 (Fla. 1966). I find nothing in §145.10(2), *supra*, to indicate that the provisions of the act relating to the special qualification salary supplement are to be given a retrospective operation—either to July 1, 1973, or to January 1, 1973. Accordingly, it must be concluded that tax assessors who were certified by the department prior to October 1, 1973, may receive the special qualification salary beginning October 1, 1973, the effective date of the act.

073-448—November 29, 1973

MUNICIPAL HOME RULE POWERS ACT

PROCEDURE FOR AMENDMENT OF ORDINANCES

To: Patrick G. Kennedy, City Attorney, DeLand

Prepared by: Sharyn Smith, Assistant Attorney General

QUESTIONS:

1. May the City of DeLand adopt an ordinance assessing costs and attorneys' fees against the owners of property which has been determined to be a public nuisance and, therefore, subject to abatement by the city commissioners?
2. Could such an ordinance legally be given a retrospective application?

SUMMARY:

The City of DeLand may adopt an ordinance assessing costs and attorneys' fees against the owners of property which has been determined to be a public nuisance and, therefore, subject to abatement by the city commissioners. Such an ordinance may legally be given a retrospective application; however, it may not apply to abatement proceedings already completed when no existing law authorized such assessment of costs and attorneys' fees.

AS TO QUESTION 1:

As a general rule, attorneys' fees may be recoverable as costs and assessed