

purposes. Similarly, the statutory entities here in question are agents of the state for the purpose of carrying out the limited powers and authority conferred upon them by statute within their respective territorial jurisdictions; however, in the absence of anything to indicate, either expressly or by necessary implication, that the legislature intended to extend its insurance program to this type of statutory entity, I can only advise that the decision to do so be postponed pending judicial or legislative clarification of the question.

Answering your second question: The State Career Service System prescribed by Ch. 110, *supra*, is applicable to all positions in state government, except as specifically exempted therein. Section 110.042(1), F. S., defines "state agency" or "agency" to mean "any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government as defined in chapter 216." (Emphasis supplied.) Section 216.011(1)(cc), *id.*, defines the judicial branch of state government to include all judicial offices, courts, or other units of the judicial branch of state government which are "supported in whole or in part by appropriations made by the legislature." And it seems to me that this definition is indicative of an intention to include within the state's compulsory career service system only those agencies supported in whole or in part by appropriations made by the legislature—whether executive or judicial—and which are part and parcel of the executive and judicial branches of state government, as distinguished from special statutory entities that may perform a county or district purpose as well as, in some sense, a state purpose. This conclusion is confirmed by the fact that §110.071, F. S., expressly provides that:

The department of administration may enter into agreements with any municipality or political subdivision of the state to furnish services and facilities in the administration of its personnel program. . . .

Accordingly, pending legislative or judicial clarification, it is suggested that the State Career Service System not be extended to special statutory entities such as those referred to in your letter.

073-33—February 27, 1973

PUBLIC DEFENDER

DISPOSITION OF FUNDS COLLECTED FROM DEFENDANTS FOR PUBLIC DEFENDERS' SERVICES IN MISDEMEANOR CASES

To: Irvin Frank, Jr., Public Defender, Stuart

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

When the reasonable value of the services of a public defender in a misdemeanor case has been assessed by the court and collected from the defendant, should these funds be remitted to the county?

SUMMARY:

When the reasonable value of the services of a public defender in a misdemeanor case has been assessed by the court and collected from the defendant, such funds must be remitted to the state under §27.56, F. S., even though the county may have contributed funds toward the payment of the cost of defending misdemeanors or violations of county ordinances.

The statute under the authority of which the reasonable value of the services of the public defender becomes a lien against the defendant's property is §27.56, F. S. As noted in AGO 067-85, such liens are, under the express terms of the statute, enforced on behalf of the State of Florida for the purpose of helping to defray the expenses of the statewide public defender system. *Accord*: Attorney General Opinion 072-39, in which it was noted that the operation of the office of the public defender is, primarily, the obligation of the state.

I find no changes in the applicable statutory law that would require a different conclusion as to the expense of defending misdemeanors. Section 27.54, F. S. (1972 Supp.), was amended at the 1972 Special Session by Ch. 72-722, Laws of Florida (Senate Bill 10-A), to provide that cities and counties are prohibited from contributing funds for the operation of the offices of the public defenders "except for the purpose of defending misdemeanors and violations of municipal or county ordinances." Senate Bill 10-A also amended §27.51(1), *id.*, so as to add the following provision:

The public defender may represent any person who is determined to be insolvent, as provided in this act, who is under arrest for, or is charged with a misdemeanor or violation of a municipal or county ordinance in the county court. Funds for such purpose may be provided by the county or municipality having jurisdiction of said offense.

(It should be noted that this change in the statutory law affects the conclusion reached in AGO's 071-67, 071-105, and 072-405 respecting the *authority* of the public defender to defend persons accused of misdemeanors; and those opinions are hereby modified to the extent of the conflict with §27.51 as amended, *supra*.)

It is noteworthy that §27.56, *supra*, providing for a lien against an indigent defendant's property to cover the reasonable value of the services of the public defender in undertaking his defense, was amended in the 1972 Regular Session of the Legislature by Ch. 72-41, Laws of Florida, to add an additional paragraph (2)(c) authorizing the public defender to contract with a collection agency for the collection of the liens therein created. However, no change was made in the other provisions of the section, requiring the funds thereby collected to be turned over to the state to help defray its cost in providing indigent persons with counsel. Nor was any change made in §27.56 in the 1972 Special Session when, in addition to Senate Bill 10-A, quoted above, the legislature also adopted House Bill 41-A [Ch. 72-733, Laws of Florida], appropriating state funds to finance the public defender's office for the period January 1, 1973, to June 30, 1973, for the expense of defending indigents charged with misdemeanors or violations of city or county ordinances, and again authorizing cities and counties to appropriate additional funds to supplement state funds for this purpose.

In these circumstances, even though county funds may have been appropriated to the office of the public defender for the purpose of reimbursing him for defending insolvent defendants charged with misdemeanors or violations of county ordinances, I find nothing in the statute that may be interpreted as authorizing him to return to the county any portion of the moneys collected by him under §27.56, *supra*. Accordingly, pending legislative or judicial clarification of this matter, your question must be answered in the negative.