

societies. Thus, if a religious society has determined that a particular individual is an ordained minister under its creed, then that person may solemnize marriages pursuant to said §741.07, and all marriage licenses issued in this regard should be handled as provided for in §§382.23, 382.24, and 741.09, F. S.

073-316—September 5, 1973

RETIREMENT

RETIREMENT SYSTEM ELECTION BY MUNICIPAL EMPLOYEE

To: *W. L. Stark, City Clerk, Tampa*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

May a municipal official who has served continuously as an elected city official for twenty-one years retire under §165.25, F. S., as amended by Ch. 73-129, Laws of Florida?

SUMMARY:

A municipal official who has served continuously as an elected city official for twenty-one years is entitled to the pension benefits provided by §165.25, F. S., if the city has no other retirement system available to its elected officials. However, if the city has adopted such a retirement system, he must retire and claim the benefits of the pension plan under §165.25 prior to October 1, 1973.

You state that you served as an elected city councilman for a four-year term beginning in November of 1951 and as an elected city clerk of the city beginning in 1955, "making a total of over twenty-one years of uninterrupted service with the city." Under §165.25, *supra*, each city and town of this state has long been required to provide a pension for those of its elected officials who have held elective office of such city or town for twenty consecutive years and to budget funds annually sufficient to meet the statutory requirement. This section was amended in 1973 [§4, Ch. 73-129, Laws of Florida] and transferred to §121.20, effective October 1, 1973, to require each city or town to provide a retirement system for its elected officials, either contributory or noncontributory. The amendment also added to the statute the provision italicized below:

. . . and such city and town shall appropriate and provide in its annual budget sufficient moneys to meet the requirements of this section *where no other plan is available for elected local officials.* . . . (Emphasis supplied.)

You do not state whether the city has adopted the Florida Retirement System or any other retirement plan that is available to its elected officials. I ruled in AGO 073-251 that, after October 1, 1973, a municipality must make the pension payments provided by §165.25, *supra*, to its elected municipal officials only if no other retirement plan is available for such officials.

Assuming then, that the city has not adopted another retirement plan for its elected public officials, you are entitled to the pension-plan benefits provided by §165.25, *supra*. If the city has adopted another retirement plan that is available to its elected officials, your election to retire and accept the pension benefits of §165.25 must be made prior to October 1, 1973, the effective date of Ch. 73-129, *supra*.