

discounts, bulk discounts and advertising packages, including any cash discounts allowed."

AS TO QUESTION 2:

You state that there may be special rates available to religious, charitable, civic, and eleemosynary organizations and inquire whether the statute may validly require the advertising media to provide political advertising at a rate lower than the lowest commercial rate.

This office, as a matter of public policy of long standing, does not ordinarily comment on the validity of a statute, as to do so would be an unwarranted intrusion into the province of the judiciary. However, I do not understand that the legislature intended to give to political advertisers the benefit of any special rate that a newspaper or other type of news media might, either routinely or in a special case, give to a charitable or other similar organization. The discounts referred to in the statute are those ordinarily given to commercial advertisers who regularly carry advertisements in newspapers or other news media; and there is nothing in the statute that either expressly or by necessary implication indicates that the legislature intended to give to political advertisers the benefit of a special rate given to a charitable or other similar organization.

AS TO QUESTION 3:

The provision referred to in this question prohibits newspapers or other news media from charging "one political candidate in a county a higher rate than another political candidate." It was added to §104.372, *supra*, by Ch. 61-265, Laws of Florida, and was unchanged by the 1972 and 1973 amendments to the section referred to above. It was apparently intended to prohibit the news media from adjusting their rates for political advertisements so as to discriminate in favor of candidates whose candidacies they supported and against those whose candidacies they opposed. As noted above, under the 1972 and 1973 amendments to the statute, all candidates are entitled to the benefit of the lowest local rate that could be charged to commercial customers in any of the circumstances described in the statute. Below this ceiling, newspapers and other news media apparently have some discretion insofar as the rates for political advertisements are concerned. However, under the provision here in question, there can be no discrimination between candidates whose advertising needs are the same.

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ANTINEPOTISM LAW

APPLICABLE TO PARK BOARD; BOARD MAY NOT TAKE ACTION IN CONTRAVENTION OF LAW EVEN IF RELATED BOARD MEMBER ABSTAINS FROM VOTING

To: *Raymond E. Thompson, Park Board Attorney, Hollywood*

Prepared by: *Sharyn Smith, Assistant Attorney General*

QUESTIONS:

1. Is the Topeekeegee Yugnee Park Commission an agency within the meaning of the Antinepotism Law, §116.111, F. S.?
2. May the brother-in-law of a member of the Topeekeegee Yugnee Park Commission be employed as park administrator by the commission if the related member of the commission abstains from voting on such employment?

SUMMARY:

The Topeekeegee Yugnee Park District is an "agency" within the

purview of §116.111, F. S., the Antinepotism Law, and its governing body is subject to the proscriptions thereof. The governing body of such district may not employ the brother-in-law of one of its members, even if the related member abstained from voting on such employment.

AS TO QUESTION 1:

The Antinepotism Law, §116.111, *supra*, prohibits a public official from appointing, employing, promoting, or advancing or advocating for employment, promotion, or advancement a relative to a position in an *agency* over which such official exercises jurisdiction or control. An "agency" is defined at §116.111(1)(a), as:

1. A state agency except institutions under the jurisdiction of the division of universities of the department of education;
2. An office agency or other establishment in the legislative branch;
3. An office, agency or other establishment in the judicial branch;
4. A county;
5. A city; and
6. *Any other political subdivision of the state*, except district school boards and junior college districts" (Emphasis supplied.)

A political subdivision is further defined at §1.01(9), F. S., to include " . . . counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts *and all other districts in this state*." (Emphasis supplied.) The Topeekeegee Yugnee Park Commission (hereafter referred to as commission) was established by Ch. 65-1345, Laws of Florida, in order to govern a special tax district to be known as the Topeekeegee Yugnee Park District. *See* §§1 and 2, *id.* Since the *park district* clearly falls within the above definition of a political subdivision, it is an "agency" within the purview of §116.111, F. S., and its governing body is subject to the provisions of the Antinepotism Law, *supra*.

Your first question is, therefore, answered in the affirmative.

AS TO QUESTION 2:

The commission, under §3, Ch. 65-1345, *supra*, is given the full power and authority to act as the governing body of the park district. Consistent with this grant of power, the sole authority to hire employees vests in the commission. Section 3, *id.*

The commission may not, however, hire as an employee a *relative*, which includes, at §116.111(1)(c), F. S., "brother-in-law" of one of its members. In AGO 073-75, I held that §116.111, F. S., applied to the employment of a brother of a member of a board of county commissioners, as a mosquito control and garbage disposal worker, when the county commission actually exercised jurisdiction and control with respect to such employment and work. This rule is equally applicable to the question presented in the instant case.

In a letter dated May 11, 1971, I concluded that a board of county commissioners, which likewise possessed the sole power to hire employees, could not employ the first cousin of a member of the board even though the related member did not promote or advocate the relative's employment, did not participate in any interview with the relative, and *abstained from voting on the question of the relative's employment*. If any different conclusion was to be reached, the purpose and intent of the Antinepotism Law could be easily circumvented merely by allowing a commission member to abstain. If each member of a commission were allowed to abstain, the board could conceivably employ a relative of each of its members. Therefore, the Topeekeegee Yugnee Park Commission may not employ the brother-in-law of a member of the commission despite the related commission member's abstention from voting on such employment, and your second question is answered in the negative.