

"dividing the duties of the office of circuit clerk" between the two officers designated therein; and §7 of the act confirms that the legislative intent was merely to separate the judicial and nonjudicial duties of the office of circuit court clerk. It provides that

Except as provided above, *the provisions of existing law* relating to the duties, fees, compensation and method of election of the clerk of the circuit court, and *other existing provisions of law applicable to that office*, shall in Escambia County apply as follows: Those relating to litigation, proceedings and matters within the jurisdiction of the circuit court and other courts of the county shall apply to the clerk of the circuit court, and all others shall apply to the county comptroller; provided, however, any such provisions that may appropriately apply to both of these officers shall be so applied. (Emphasis supplied.)

One of the "other existing provisions of law" relating to circuit court clerks is §125.17, F. S., providing that the clerk of the circuit court "shall be clerk and accountant" of the board of county commissioners and "shall keep their minutes and accounts, and perform such other duties as their clerk *as the board may direct*" (Emphasis supplied.) Thus, under the rule that statutes *in pari materia* are to be read together and construed, if possible, so as to preserve the force of both, without destroying their evident intent, *State v. Collier County*, 171 So.2d 890 (Fla. 1965), and in light of the clear import of §7 of the act, *supra*, the designation of the clerk as "administrative officer" must be construed to accord with §125.17, *supra*. When so construed, it is inescapable that the county comptroller, in serving as clerk and administrative officer of the board of county commissioners, should serve at its direction in accordance with the procedures traditionally followed by the circuit court clerk in carrying out his duties in this respect.

Your question is, therefore, answered in the negative.

073-423—November 15, 1973

PUBLIC OFFICERS

APPOINTEE FILLING UNEXPIRED TERM OF OFFICE—SALARY

To: Daniel N. Martin, Attorney for Clerk of Circuit Court, Port Richey

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

Is the 20 percent limitation on salary increases provided by §11 of Ch. 73-173, Laws of Florida [§145.18(2), F. S.], applicable to the compensation to be paid to a county commissioner appointed to serve the unexpired term of a deceased incumbent of the office?

SUMMARY:

The 20 percent limitation on salary increases provided by §11 of Ch. 73-173, Laws of Florida [§145.18(2), F. S.], is applicable to the compensation to be paid to a county commissioner appointed to serve the unexpired term of the deceased incumbent of the office.

Your question is answered in the affirmative.

Chapter 73-173, Laws of Florida, amends Ch. 145, F. S. (the Uniform County Officials' Salary Act), by establishing new salary schedules for county officials,

including members of the boards of county commissioners. Section 11 of the 1973 act, *supra* [§145.18(2), F. S.], provides in pertinent part that

. . . in no event shall any person receive an increase in salary in any one fiscal year in excess of twenty percent (20%) of his total compensation for the preceding fiscal year ending June 30th. . . .

I have heretofore ruled in AGO 072-122 that the provisions of Ch. 145, *supra*, relating to the compensation of county officials, are applicable not only to an incumbent holding office at the time the act was adopted but also to a successor appointed to serve out the balance of an incumbent's term. The language of the statute there interpreted—§145.121(2)(c), F. S. 1971—was couched also in personal terms, namely,

Those whose total compensation . . . was in excess of the salary payable under this chapter shall continue to be compensated under the terms and conditions which prevailed immediately prior to July 1, 1969, until the expiration of their present term of office

In holding that the statute was intended to refer to the office as an entity and not to the incumbent officer, the opinion pointed out that the view that the reference was to the office as an entity is "a sound public policy which allows for uniformity and certainty of definition" and is in accord with the Florida rule that the right to compensation "is an incident to the office . . .," citing 67 C.J.S. *Officers* §83. It was noted also that an appointee to serve out an unexpired term "merely steps into the shoes of the former incumbent with all the duties and responsibilities as well as the advantages and detriments; any or all of which might be subject to legislative change effective after his 'term of office.' "

These observations are equally applicable to a determination of the question here presented. Accordingly, you are advised that the appointee to serve out the balance of the term of the deceased county commissioner should be compensated at the same rate as the other county commissioners.

073-424—November 15, 1973

WORKMEN'S COMPENSATION

ELIGIBILITY OF COUNTY LAW LIBRARIAN

To: Ernest E. Mason, Chairman, Escambia County Law Library Board, Pensacola

Prepared by: Halley B. Lewis, Assistant Attorney General

QUESTION:

Is the librarian employed by the Escambia County Law Library Board for the Law Library of Escambia County an employee subject to the terms and provisions of Ch. 440, F. S., relating to workmen's compensation?

SUMMARY:

The Law Library Board of Escambia County is an agency of the county carrying on a county function. It follows that the librarian is a county employee within the meaning of §440.02(2)(a), F. S., employed by the county, a political subdivision within the meaning of §440.02(1)(b), F. S., as his employer within the meaning of §440.02(4), F. S. Neither the county library board, nor the board of county commissioners nor Escambia County is a person or any public service corporation within the meaning of §440.02(5), F. S. Nevertheless, the librarian is a person within the meaning of §440.02(2)(a) and (5).