

073-38—March 2, 1973

**CIVIL AND CRIMINAL COURT OF RECORD
JUDGES' ASSOCIATION**

DISPOSITION OF FUNDS UPON DISSOLUTION

To: W. Rogers Turner, Presiding Judge, Division B, Orange County Criminal Court of Record, Orlando

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

May funds in the treasury of the Civil and Criminal Court of Record Judges' Association of Florida derived from assessment of annual dues as paid for by the respective county commissions of the state be legally transferred to the treasury of the Circuit Judges' Conference of Florida upon the dissolution of the Civil and Criminal Court of Record Judges' Association of Florida, pursuant to the implementation of new Art. V of the State Constitution?

SUMMARY:

Upon dissolution, the funds of the Civil and Criminal Court of Record Judges' Association of Florida may be transferred to the treasury of the Circuit Judges' Conference of Florida.

I assume from your inquiry that the association is an unincorporated association composed of judicial officers and not an official agency of the state. Thus, the funds collected by the association are not public funds within the purview of §219.05(3), F. S., requiring the funds of a vacated county office to be transferred to the incoming officer. *Cf.* AGO 072-184, holding that the financial records of a nonprofit association of public officials are not within the purview of the public records law, §119.01, F. S.

As to funds of an unincorporated association, the general rule is that such funds should, upon its dissolution, be distributed pro rata among the members of the association, providing the rights of third persons have not intervened and the association does not partake of the nature of a charity. *See* 6 Am. Jur.2d *Associations and Clubs* §23, p. 449. Thus, upon the dissolution of the association, the funds remaining in its treasury could either be returned, pro rata, to the counties whose funds were contributed thereto, or may be transferred to the treasury of the Circuit Judges' Conference of Florida.

073-39—March 2, 1973

MINORS

EMPLOYMENT BY LIQUOR VENDORS

To: Robert M. Johnson, Representative, 74th District, Sarasota

Prepared by: Henry George White, Assistant Attorney General

QUESTION:

Does §562.13, F. S., preclude the employment of on-stage entertainers, under the age of seventeen, in dinner theaters in which patrons are served alcoholic beverages?

SUMMARY:

Section 562.13, F. S., prohibits the employment of professional

entertainers, who are under seventeen years of age, in dinner theaters in which alcoholic beverages are served.

The answer to your question requires a brief examination of the statutes concerning both the licensing of dinner theaters which serve alcoholic beverages and the employment of minors in such establishments.

Chapter 28117, 1953, Laws of Florida, now appears, with subsequent amendments, as §561.20(2), F. S. This statute permits the issuance of "special" liquor licenses to restaurants which have at least twenty-five hundred square feet of service area, are equipped to serve one hundred fifty persons full course dinners at one time, and which derive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages. The dinner theaters to which you refer in your letter are presumably the type which are issued "special" licenses under §561.20(2). Minors are legally permitted to be on the premises of establishments which have been issued "special" licenses when their presence is for the purpose of dining, dancing, or listening to music, but they may not lawfully be served or be allowed to consume alcoholic beverages. *Taylor v. State Beverage Department*, 194 So.2d 321 (2 D.C.A. Fla., 1967). *Accord*: Attorney General Opinion 072-105.

Under the original beverage law, the employment of minors on licensed premises was prohibited. However, in 1955, the legislature enacted §562.13, F. S., which reads in pertinent part as follows:

It is unlawful for any vendor licensed under the beverage law to employ any person under twenty-one years of age. However, this section shall not apply to professional entertainers between the ages of seventeen and twenty-one years who are not in school

No distinction is made concerning either the type of entertainment provided or the location of entertainers (*i.e.*, on or off stage) during a performance.

It will be noted that §561.20(2), *supra*, which authorizes "special" liquor licenses for bona fide food service establishments, was already a part of the beverage laws at the time that §562.13, *supra*, was enacted. The legislature is presumed to have knowledge of existing law when it enacts a statute. *Collins Investment Co. v. Metropolitan Dade County*, 164 So.2d 806 (Fla. 1964). Accordingly, it must be assumed that had the legislature intended to make a special exception for the employment of professional entertainers under the age of seventeen in establishments holding "special" licenses pursuant to §561.20(2), *supra*, such an intention would have been clearly expressed in §562.13, *supra*. The exception in §562.13, *supra*, with respect to the employment of professional entertainers is clearly limited to minors between seventeen and twenty-one years of age. In AGO 059-207 it was held that the provisions of §562.13, *supra*, should not, by implication, be given an interpretation which is broader than that warranted by the language of the beverage laws. Thus, while minors under seventeen years of age may frequent establishments holding "special" liquor licenses as long as they are not served alcoholic beverages, such establishments may not employ entertainers who are less than seventeen years of age.

073-40—March 5, 1973

COUNTIES

OLDER AMERICANS ACT—CONTRIBUTION OF COUNTY FUNDS TO NONPROFIT CORPORATION

To: *Emmett S. Roberts, Secretary, Department of Health and Rehabilitative Services, Tallahassee*

Prepared by: *Bjarne B. Andersen, Jr., Assistant Attorney General*