

AS TO QUESTION 2:

In AGO 072-155, the following question was raised:

Does §40.07(2), F. S., disqualify military officers of the United States from jury duty because they are "United States officials"?

Based on Art. II, §2, of the United States Constitution, and the case law interpreting its provisions, the question in AGO 072-155 was answered affirmatively.

The rationale was that the appointment of a United States military officer in every case meets one of the following procedures: by appointment by the President and confirmation by the Senate, or, by an act of Congress, by the President alone, by the head of a cabinet department, or by order of a court of law.

It is my understanding that FBI agents do not obtain their positions through any of the above procedures. Accordingly, your second question is answered in the negative.

073-414—November 8, 1973

PUBIC FUNDS

EXPENDITURE FOR EMPLOYEES' INCOME PROTECTION
INSURANCE UNAUTHORIZED

To: Charles Miner, General Counsel, Florida State Board of Education,
Tallahassee

Prepared by: Stephen F. Dean, Assistant Attorney General

QUESTION:

Does §112.12, F. S., contemplate that income protection insurance be included in the terms "accident" and "hospitalization" insurance for the purpose of authorizing payment of premiums therefor from available public funds?

SUMMARY:

Section 112.12, F. S., does not authorize the expenditure of public funds to pay premiums for income protection insurance.

Your question is answered in the negative.

As indicated in AGO 059-276, which did not specifically deal with the question raised herein, statutory authority must exist for the expenditure of public funds to pay premiums for insurance coverage on public employees.

Since its original passage, §112.12, F. S., has been amended to include additional types of insurance coverage and to include officers as well as employees. The latest amendment by Ch. 72-338, Laws of Florida, expanded the authority to expend public moneys for insurance premiums to life insurance.

Section 112.12, F. S., does not specifically enumerate income protection insurance among the types of coverage for which the premiums may be paid from public funds. In the absence of statutory authority the expenditure of public moneys is not authorized. Because the history of §112.12 indicates specific amendments which expand the types of coverage, the premiums of which could be paid from public funds, and expands those whose premiums for insurance could be paid from public funds, I find that the rule of statutory construction *expressio unius est exclusio alterius* is particularly applicable. Because income protection insurance has not been enumerated and other different types of insurance coverages have been enumerated, I must conclude it was not the intent of the legislature to authorize the expenditure of public funds for the payment of premiums on income protection insurance.