

It should be noted that possible conflicts might arise between such an attorney's private and public practice of law by the conducting of a private practice in or out of the public office of the state attorney or public defender. By way of suggestion, I might add that any ethical conflicts should be submitted to the Professional Ethics Committee of The Florida Bar for determination.

073-487—December 26, 1973

### COUNTIES

#### PUBLICATION OF MINUTES OF COUNTY COMMISSION MEETING—RATES

*To: Alton M. Towles, Attorney, Gadsden County Commission, Quincy*

*Prepared by: Michael Parrish, Assistant Attorney General*

#### QUESTION:

May a board of county commissioners enter into a contract with a newspaper to publish all or a substantial portion of the minutes of county commission meetings at rates less than those provided by §50.061, F. S.?

#### SUMMARY:

A board of county commissioners may lawfully contract for the publication of the minutes of its meetings at rates lower than those specified in §50.061, F. S.

Your question is answered in the affirmative.

Chapter 67-84, Laws of Florida, added §125.57, F.S., which reads:

(1) The board of county commissioners of any county in the state may publish the minutes of its meetings in a newspaper of general circulation in said county. The costs of such publication of the minutes may be paid out of the general fund of the county.

(2) It is the intent of this Act to provide the citizens of the county affected with information concerning the activities and business being conducted in behalf of the county by the board of county commissioners.

Although §125.57 was repealed by Ch. 71-14, Laws of Florida, the repealer provided:

The repeal of the foregoing sections of the Florida Statutes shall not be deemed to repeal or limit the powers of the board of county commissioners, but shall be deemed to continue and expand such powers and remove certain limitations heretofore prescribed by law.

Thus, although there is no longer any specific statutory authorization, it is clear that a board of county commissioners has the authority to contract for the publication of the minutes of its meetings and to expend county funds therefor. *See also*, §125.01(1)(w) and (3), F. S.

Section 50.061, F. S., provides that the rates specified therein must be charged for "official public notices or legal advertisements." Clearly, the minutes of meetings of a county commission are not "legal advertisements," nor do they appear to be "official public notices" within the scope of §50.061. Although the term official public notices is not defined in Ch. 50, F. S., it appears from a reading of §50.061 *in pari materia* with the other sections of that chapter that the intent of the legislature was to make the rates specified in §50.061 applicable only to notices required by *statute* or notices in the nature of, or in lieu of, process or in exercising

or enforcing jurisdiction or governmental functions which are permitted *by statute* to be made in a specified manner. Inasmuch as there are no statutory provisions with respect to the publication of minutes of meetings of a county commission, I am of the view that, until determined otherwise by a court of competent jurisdiction, a board of county commissioners may lawfully contract for the publication of the minutes of its meetings for the information of, and as a service to, the citizens of the county at rates below those specified in §50.061.

073-488—December 26, 1973

### MUNICIPALITIES

#### INCREASING PENSION BENEFITS UNDER ORDINANCE WITHOUT REFERENDUM

To: Thomas H. Anderson, Miami Shores Village Attorney, Miami

Prepared by: Jan Dunn, Assistant Attorney General

#### QUESTION:

May the Miami Shores Village Council increase the pension benefits to retired employees when the pension fund, although authorized by a special law, is set up by ordinance?

#### SUMMARY:

The Miami Shores Village Council may increase the pension benefits to retired municipal employees without a referendum of the electors when the pension fund, although authorized by a special law, is established by ordinance, so long as the one-mill limitation fixed by the ordinance on the amount of the village's contribution to such fund is not exceeded.

A special law provides that a municipal pension plan for the employees of the village may be established by ordinance, and that the council may make contributions of public moneys on "such terms and conditions as it may see fit." Chapter 27740, 1951, Laws of Florida. The ordinance effectuating the provisions of such special act says that the contribution to the pension fund shall not exceed one mill on the dollar on all taxable property in the village. Ordinance No. 273, §19. The council now wishes to increase the benefits to retired employees but still remain below the one-mill limit fixed by the ordinance. I assume, for the purposes of this opinion, that the contemplated increase in retirement benefits within the one-mill limitation is actuarially feasible.

Assuming the applicability of Ch. 73-129, Laws of Florida, to the instant question, a municipality may not, without a referendum, change any provision in a special law which affects "any rights of municipal employees." Section 166.021(4), F. S. Attorney General Opinion 073-427 held that, in general, pension plans set out in municipal charters (or special laws) come under the definition of rights of municipal employees. Therefore, any special law or charter which sets up a pension plan can only be changed by way of referendum of the electorate. In addition, Ch. 27740, *supra*, provides that the ordinance establishing the pension fund shall not be thereafter amended in such a way as to increase the amount which the village is to contribute to the fund without the approval of the electorate. It might also be noted that under Art. V, §5.03, of the Dade County Charter, municipalities within Dade County can amend their charter only by referendum of the electors and pursuant to the procedures therein prescribed.

In the instant case, however, the special act merely authorizes a pension fund. The fund is established and the amounts to be paid by the city and to the employees