

government shall begin its fiscal year on October 1 of each year and end on September 30.

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(3) The provision contained in subsection (1) shall apply to all fiscal years beginning after September 30, 1973. The department may, upon the request of a local governmental unit and a showing of inability to conform by September 30, 1973, extend the time of compliance to September 30, 1974.

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Section 11. This act shall take effect July 1, 1973; and section 1 of this act shall be repealed on June 30, 1974.

Current informal administrative construction of §218.33(3), F. S., by the Department of Banking and Finance, adopts the apparently reasonable position that units of local government having fiscal years beginning before September 30, 1973, can have until September 30, 1974, to conform to the mandate of the act, upon proper notification to the department. Clearly, to interrupt an ongoing fiscal period such as began on July 1, 1973, for the subject district at this time would create considerable inconvenience and disruption in the fiscal planning of the district. The legislature could not have intended to interrupt an ongoing fiscal period in such a manner, and the extension provision shows a recognition of this situation and a desire on the part of the legislature for an orderly and prospective transition.

Assuming that the millage certification procedure of Ch. 73-172, *supra*, applies to the district, it is my opinion that, although the prospective effect of Ch. 73-172 is to revise the administration of ad valorem taxation and certain budgeting practices with regard thereto, and therefore to supersede conflicting prior statutes, the requirements of §378.28, F. S., and not the requirements of §13(2) of Ch. 73-172 (prohibiting the budgeting of certain increased taxes without a specific form of advertised notice) are controlling for fiscal year 1973-1974 (July 1, 1973 to June 30, 1974) for the Central and Southern Florida Flood Control District.

073-304—August 31, 1973
(See also 073-304A)

COUNTY CHARTER COMMISSION

COMPOSITION OF LEGISLATIVE DELEGATION APPOINTING COMMISSION

To: Charles H. Weber, Senator, 30th District, Fort Lauderdale

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

What legislators should vote as members of the "legislative delegation" in appointing a county charter commission, as provided by §125.61(2), F. S.?

SUMMARY:

Pending legislative or judicial clarification, the "legislative delegation" for the appointment of members of a county charter commission under §125.61(2), F. S., should consist of all legislators in whose districts all or any portion of the county is included.

Section 125.61(2), F. S., was enacted by Ch. 69-45, Laws of Florida, as a part of the procedure whereby a county may adopt a home rule charter. The proceedings may be initiated by resolution of the board of county commissioners or by petition signed by at least 15 percent of the qualified electors of the county. Within thirty days of the adoption of the resolution or the filing of the petition, the members of the commission "shall be appointed by the legislative delegation *having jurisdiction in said county.*" (Emphasis supplied.)

Your question is generated by the fact that the 1972 legislative redistricting resulted in some multidistrict counties, so that a portion of a county may be in more than one legislative district. No statute or legislative rule has been found in which the term "legislative delegation" has been expressly defined for any purpose. I understand that, in seating the members of the House of Representatives and in taking action on local measures, a member whose district overlaps into and includes a small portion of an adjoining county in another district is not considered a member of that county's "legislative delegation." Here, however, the statute itself describes the legislators who are to participate in the selection of the charter commission, namely, those legislators "having jurisdiction in said county."

While the 1972 redistricting which generated the problem had not been adopted at the time §125.61(2), *supra*, was passed, the 1968 Constitutional redistricting provision authorizing multidistrict counties had been adopted; and in 1973 the legislature amended §125.61(2), *supra* (by Ch. 73-290, Laws of Florida), to require vacancies in a charter commission office to be filled within thirty days, and reenacted *without change* the requirement that the members of the commission shall be appointed "by the legislative delegation having jurisdiction in said county." See also *In re Apportionment Law*, Senate Joint Res. No. 1305, 263 So.2d 797, 807 (Fla. 1972), in which the court upheld the 1972 redistricting and said:

When the people of Florida adopted the Constitution of 1968 they reserved to themselves the right to instruct their representatives and, at the same time, authorized the election of these representatives in senatorial and representative districts which may be "either contiguous, overlapping or identical territory."

It is presumed that the legislature, in enacting a statute, acts with full knowledge of existing constitutional and statutory provisions relating to the subject. *Tamiami Trail Tours v. Lee*, 194 So. 305 (Fla. 1940); AGO 057-330. The possibility that multidistrict counties would evolve out of the redistricting was or should have been apparent in 1969 when §125.61(2), *supra*, was adopted; and this was, of course, a *fait accompli* in 1973 when Ch. 73-290, *supra*, was enacted. This being so, it cannot be said with any degree of certainty that the legislature intended to include as members of the "legislative delegation" in question only those legislators who resided in the county or represented the entire county, and to exclude from the delegation those legislators whose districts included only a portion of the county.

Moreover, it is a well-settled rule of statutory construction that when the language of a statute is plain and unambiguous and conveys a definite meaning, there is no occasion or necessity for construction and the statute must be given effect according to its plain and obvious meaning. *Biddle v. State Beverage Dept.*, 187 So.2d 65 (4 D.C.A. Fla., 1966); *State ex rel. Florida Jai Alai, Inc. v. State Racing Commission*, 112 So.2d 825 (Fla. 1967). It seems clear that a legislator would have "jurisdiction in a county" which is included in the district which he represents regardless of whether he represents all or only a portion of such county, or whether that portion of the county is also included in another district.

In these circumstances, I must advise you that, pending legislative or judicial clarification, legislators who represent all or any portion of the county should be included as members of the legislative delegation to select the county's charter commission.