

A relationship by blood exists between one and all persons with whom one shares a common blood line. A relationship by affinity exists between one and the blood relatives of one's spouse. A step relationship is a particular type of relationship by affinity, which arises between children and the subsequent spouses of their natural or adoptive parents. With these definitions in mind and assuming no blood relationship other than the obvious one between the husband and his mother, one can see that no step relationship exists between a woman and her husband's stepfather because there is no relationship by affinity between the woman and her husband's stepfather because neither of them is related by blood to the other's spouse.

Since this relationship of a stepdaughter-in-law is unmentioned in the statute and undefined in the law, I must conclude the answer must be negative.

073-32—February 27, 1973

PUBLIC OFFICERS AND EMPLOYEES

APPLICABILITY OF STATE CAREER SERVICE SYSTEM AND STATE OFFICERS' AND EMPLOYEES' GROUP INSURANCE PROGRAM TO EMPLOYEES OF SPECIAL DISTRICTS OR AUTHORITIES

To: L. K. Ireland, Jr., Secretary, Department of Administration, Tallahassee
Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTIONS:

1. Are employees of the Jacksonville Transportation Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Pinellas County Transportation Authority, or the Inter-American Cultural and Trade Center, eligible for participation in the State Officers' and Employees' Group Insurance Program as contemplated by §112.075, F. S.?

2. Are such employees subject to the State Career Service System as provided by Ch. 110, *id*?

SUMMARY:

Pending legislative or judicial clarification, neither the State Career Service System nor the State Officers' and Employees' Group Insurance Program should be extended to cover employees of special statutory entities such as the various county expressway authorities or the Inter-American Cultural and Trade Center.

Your questions are answered in the negative.

Section 112.075, F. S. (adopted by Ch. 72-399, Laws of Florida), was enacted for the purpose of authorizing a statewide group health insurance benefit program for all state officers and all full-time state employees holding salaried positions. While your questions are directed specifically to employees of the agencies named therein, it is worthy of note that the members of the governing bodies of special statutory entities such as those here in question are not ordinarily thought of as state "officers." For example, both my predecessor in office and I have ruled that officers of a special district or authority are not within the purview of the dual-office prohibition of the Constitution (Art. II, §5, State Const.). See ACO's 069-49, 071-324, and 071-328. And it has long been settled that the constitutional provisions requiring the election by the people or appointment by the governor of state and county officers (Art. III, §27, State Const. 1885, omitted in the 1968

Constitution) and providing that state and county officers shall hold over until their successors are duly qualified (Art. XVI, §14, State Const. 1885; Art. II, §5, State Const.) were not applicable to officers of a special district or authority created by statute to perform a special state or county function or purpose. *See* State v. Ocean Shore Improvement District, 156 So. 433 (Fla. 1934); State v. Reardon, 154 So. 868 (Fla. 1934) (St. Lucie Inlet District and Port Authority); State *ex rel.* Smith v. Hamilton, 166 So. 742 (Fla. 1936) (school district trustee); and Town of Palm Beach v. City of West Palm Beach, 55 So.2d 566 (Fla. 1951) (Palm Beaches Sanitary District).

The statute defines "full-time state employees" to include "all full-time employees of all branches or agencies of state government paid by state warrant or from agency funds" It does not define "state agency." Other provisions of the statute do, however, indicate that it was intended to apply to the state agencies that are within the purview of Ch. 216, F. S., providing the procedure for the planning and budgeting of state agency funds, including appropriations and disbursements for the salaries of state officers and employees. *See* §112.075(7), *id.*, authorizing state agencies to contribute 75 percent of the cost of individual coverage of each officer or employee participating in the insurance program and providing that "[d]uring each policy or budget year no state agency shall be permitted by the secretary of administration to contribute a greater percentage of the premium cost for its employees than any other agency." *See also* subsection (6), *id.*, providing that, at the request of an officer or employee and upon certification of the employing agency and approval by the secretary of administration, the state comptroller shall deduct from the salary check of a state officer or employee the amount of the premium payable by him.

Apparently, the agencies referred to by you are not required to comply with the planning and budgeting procedures prescribed for all branches of state government by Ch. 216, *supra*; and they are not included in the annual Appropriations Act for state agencies. While state funds may be used to assist the Inter-American Center Authority, appropriations of such funds to assist in financing the authority must be made to the Department of Community Affairs. *See* §554.161, *id.* It is relevant to note also that these agencies were not included in the Governmental Reorganization Act (Ch. 69-106, Laws of Florida) enacted by the legislature in compliance with the constitutional mandate of Art. IV, §6, State Const., to reorganize the executive branch of state government—thus evidencing a legislative determination that they are agencies which operate outside of the regular state government.

No court decision has, to my knowledge, been rendered on this or a similar question. However, my predecessor in office held in ACO 067-20 that the Monroe County Antimosquito District was not an agency of the county nor a governmental unit or board of the state within the purview of §112.12, F. S., authorizing each "county, school board, governmental unit, department, board or bureau of this state" to pay the premiums for health or accident insurance under group insurance plans provided for their employees under the authority of §112.08, *id.* The agencies referred to in your letter are not sufficiently different from an antimosquito district to require a finding that they would be considered a "governmental unit, department, board or bureau of this state" within the purview of §112.12, *supra*; and there is nothing in the language of the statute here in question to indicate that, in providing for a state group insurance program, the legislature intended to include also such special districts and authorities.

In light of these several considerations, I am inclined to the view that such independent statutory agencies should not be deemed to be state agencies within the purview of §112.075, *supra*, even though the statutes creating them designate each of them "an agency of the state." In *Forbes Pioneer Boat Line v. Board of Commissioners*, 82 So. 346 (Fla. 1919), the court noted that the board of commissioners of the Everglades Drainage District was a quasi-public corporation and an agent of the state within the "drainage district" for certain definite limited

purposes. Similarly, the statutory entities here in question are agents of the state for the purpose of carrying out the limited powers and authority conferred upon them by statute within their respective territorial jurisdictions; however, in the absence of anything to indicate, either expressly or by necessary implication, that the legislature intended to extend its insurance program to this type of statutory entity, I can only advise that the decision to do so be postponed pending judicial or legislative clarification of the question.

Answering your second question: The State Career Service System prescribed by Ch. 110, *supra*, is applicable to all positions in state government, except as specifically exempted therein. Section 110.042(1), F. S., defines "state agency" or "agency" to mean "any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government as defined in chapter 216." (Emphasis supplied.) Section 216.011(1)(cc), *id.*, defines the judicial branch of state government to include all judicial offices, courts, or other units of the judicial branch of state government which are "supported in whole or in part by appropriations made by the legislature." And it seems to me that this definition is indicative of an intention to include within the state's compulsory career service system only those agencies supported in whole or in part by appropriations made by the legislature—whether executive or judicial—and which are part and parcel of the executive and judicial branches of state government, as distinguished from special statutory entities that may perform a county or district purpose as well as, in some sense, a state purpose. This conclusion is confirmed by the fact that §110.071, F. S., expressly provides that:

The department of administration may enter into agreements with any municipality or political subdivision of the state to furnish services and facilities in the administration of its personnel program.

Accordingly, pending legislative or judicial clarification, it is suggested that the State Career Service System not be extended to special statutory entities such as those referred to in your letter.

073-33—February 27, 1973

PUBLIC DEFENDER

DISPOSITION OF FUNDS COLLECTED FROM DEFENDANTS FOR PUBLIC DEFENDERS' SERVICES IN MISDEMEANOR CASES

To: Irvin Frank, Jr., Public Defender, Stuart

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

When the reasonable value of the services of a public defender in a misdemeanor case has been assessed by the court and collected from the defendant, should these funds be remitted to the county?

SUMMARY:

When the reasonable value of the services of a public defender in a misdemeanor case has been assessed by the court and collected from the defendant, such funds must be remitted to the state under §27.56, F. S., even though the county may have contributed funds toward the payment of the cost of defending misdemeanors or violations of county ordinances.