

deem necessary." In §2 of the 1965 act, the board amended §239.022, *supra* (and transferred it to §240.062, F. S.), to read as follows:

The board shall submit the types and amounts of registration fees and tuition fees to the legislature *before said fees may become effective*. The legislature shall consider such fees and shall approve, alter, amend or change them in any manner it deems to be in the best interest of the state. (Emphasis supplied.)

It is a well-settled rule of statutory construction that it should never be presumed that the legislature intended to enact purposeless and therefore useless legislation. *Sharer v. Hotel Corporation of America*, 144 So.2d 813 (Fla. 1962). This rule is equally applicable to statutory amendments. *See Arnold v. Shumpert*, 217 So.2d 116 (Fla. 1968). And, when considered in the light of the circumstances recounted above, it is reasonable to infer that the legislative intent in adopting Ch. 65-123, *supra* was to avoid any possibility that the statute might be interpreted as creating a hiatus with respect to registration and tuition fees in a particular biennium when the House and the Senate could not agree upon the fee schedule submitted by the board of regents for approval, or any alternative schedule. This it did by expressly confirming in the board of regents its power to fix registration and tuition fees—subject to legislative approval before the fee schedule should become effective—and by eliminating the requirement that a proposed fee schedule should be submitted and approved by the legislature *for each biennium*. The clear import of the statute, as amended, is that a fee schedule submitted by the board does become effective when approved by the legislature and remains effective until altered, amended, or changed by the legislature in such manner as it "deems to be in the best interest of the state."

This interpretation of the statute is not only in accord with logic and reason but is also confirmed by the expression of legislative intent appended to the appropriations for the Division of Universities, Department of Education, in the 1973 General Appropriations Act (Items 247-250A) as follows:

Calculation of the amount of matriculation fees, out-of-state tuition fees and Continuing Education Course fees included in incidental Trust Fund appropriations is based on SCR 1230, *which was approved by the 1972 Legislature*. (Emphasis supplied.)

Accordingly, you are advised that the university registration and tuition fee schedule which was approved by the 1972 Legislature for the 1972-1973 academic year and which was not altered, amended, or changed by the 1973 Legislature remains in effect and is applicable to the 1973-1974 academic year.

073-297—August 21, 1973

STATE PROPERTY

TITLE TO PROPERTY OF TURNPIKE AUTHORITY VESTED IN STATE

To: *Vernon C. Holloway, Chairman, House Committee on Transportation, Tallahassee*

Prepared by: *Sharyn Smith, Assistant Attorney General*

QUESTIONS:

1. Is title to all tangible property of Florida's Turnpike vested in the state (*i.e.*, Department of Transportation)?
2. If the answer to question 1 is in the affirmative, is the Department of Transportation required to comply with Ch. 273, F. S.,

(on state-owned property) as well as all other applicable laws relating to state-owned property?

SUMMARY:

Title to all tangible personal property acquired by the Florida State Turnpike Authority under the authority of Ch. 340, F. S., is vested in the state; and, as the successor in title under the Governmental Reorganization Act of 1969, the Department of Transportation is required to comply with Ch. 273, F. S., as well as other applicable laws relating to state-owned property.

Your questions are answered in the affirmative.

AS TO QUESTION 1:

The Florida State Turnpike Authority was a state agency created by Ch. 28128, 1953, Laws of Florida [Ch. 340, F. S.], in order to

... make possible the construction of modern express highways, and to carry out said purpose the Florida state turnpike authority (hereinafter created) is hereby authorized and empowered to construct, maintain, repair and operate turnpike projects . . . and to issue turnpike revenue bonds of said authority, payable solely from revenues, to pay the cost of such projects §340.02, F. S.

The turnpike authority was abolished as a separate statutory entity in the Governmental Reorganization Act of 1969, and all its powers, duties, functions, and properties were transferred to the Department of Transportation by a type three transfer, *see* §20.23 (11), F. S.; however, the statutes referred to hereafter respecting the powers and duties of the authority are relevant to a determination of the questions here presented.

The general powers of the authority are enumerated in §340.06, *id.*, and include the power to "acquire, construct, maintain, repair and operate turnpike projects;" and to "acquire, hold and dispose of *real and personal property* in the exercise of its powers and the performance of its duties . . ." [§340.06(5) and (10)] and to "issue turnpike revenue bonds of the authority, payable solely from revenues . . ." [§340.06(7)]. The source of the revenues, which are channeled into a sinking fund sufficient to meet bond obligations, is limited by the legislature to tolls and other revenue derived from each turnpike project. *See* §§340.12(3) and 340.13, *id.* When such sinking funds are pledged, they are valid and binding upon the authority and any moneys received by the authority are subject to a lien of such pledge. Thus, the legislature has provided a statutory remedy to bondholders in the form of a lien upon the sinking fund. Another remedy is provided for in §340.19, *id.*, which gives any holder of bonds a cause of action at law or equity, by suit, action, mandamus, or other proceedings to protect and enforce any and all rights granted under the laws of Florida. The bondholder may enforce and compel the performance of all duties required by the act (Ch. 340, *id.*), including the fixing, charging, and collection of tolls. These legislative remedies are exclusive and encompass all of the rights, interests, and remedies of bondholders. The interest held by the bondholder is simply that of an obligee whose interest is secured by the funds provided by the legislature, *i.e.*, tolls, and revenue bonds which are self-liquidating. The revenue bonds issued for financing the turnpike are extinguished by the project's earnings and do not constitute a deed by the issuing unit or a pledge of its faith and credit. *See* 26 Fla. Jur. Public Securities and Obligations §27, p. 357.

Regarding the powers and duties of the turnpike authority, the Supreme Court in *State v. Florida State Turnpike Authority*, 80 So.2d 337, 342 (Fla. 1955), observed that:

The title [to Chapter 340] serves notice on all that by the Act the

Turnpike Authority is created; that its powers and duties are defined; *that it is given the power to acquire real and personal property, and even to resort to eminent domain, to construct turnpike projects and finance them by issuing bonds payable from tolls and other revenues* (Emphasis supplied.)

It follows that the title to all tangible personal property acquired by the turnpike authority under the powers conferred by the legislature vests in the state.

Moreover, any attempt by a state agency to pledge governmental property, either real or personal, to secure a debt is prohibited. In *State v. Florida State Improvement Commission*, 60 So.2d 747, 754 (Fla. 1952), the court was concerned with the validity of a deed conveying the land and physical property of the county to the Florida State Improvement Commission. In holding this transaction to be void, the court noted that the

. . . property is to be reconveyed to Madison County Health and Hospital Board when, as and if the principal and interest of the bonds are ever paid. This conveyance is a pledge, or a mortgage, it matters not what the name may be. *The pledging of such property to secure a debt is prohibited. There is a vast difference between the pledging of property to secure a debt . . . and the mere pledging of revenues derived from the property* (Emphasis supplied.)

AS TO QUESTION 2:

Chapter 273, F. S., the State Tangible Personal Property Control Law, required the keeping of certain records by a custodian in connection with tangible personal property owned by the state. Section 273.01(1) defines the custodian of all tangible state-owned personal property as ". . . any elected or appointed state officer, board, commission, or authority, and any other person or *agency entitled to lawful custody of property owned by the state.*" (Emphasis supplied.) Former §340.05(1), F. S. 1967, defined the Florida State Turnpike Authority as a *state agency*; and §340.06(10), *id.*, empowered it to "*acquire, hold and dispose of real and personal property.*" (Emphasis supplied.) As noted above, under the Governmental Reorganization Act of 1969, Ch. 20, F. S., the Florida State Turnpike was transferred by a type three transfer to the Department of Transportation. In the transfer, the turnpike authority was merged into the Department of Transportation and all statutory powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations and allocations of the authority, except those transferred elsewhere by the legislature, became the responsibility of the Department of Transportation.

Therefore, it is now the duty of the Department of Transportation, as it was the previous duty of the turnpike authority, to comply with the requirements of Ch. 273, F. S., relating to state-owned tangible property and all other applicable laws relating to state-owned property.

073-298—August 21, 1973

ADULT RIGHTS LAW

ACTING AS EXECUTOR OR ADMINISTRATOR OF ESTATE

To: *Richard A. Bronson, Circuit Judge, Bartow*

Prepared by: *Jan Dunn, Assistant Attorney General*

QUESTION:

Are persons eighteen to twenty years of age now qualified to act as an executor or administrator of an estate?