

QUESTION:

May a public defender, during his term of office, conclude matters begun in private practice before taking office?

SUMMARY:

Section 27.51(3), F. S., requires a public defender, during his term of office, to disassociate himself completely from the private practice of law.

Section 27.51(3), F. S., provides in pertinent part:

All public defenders elected to office on or after November 1, 1972, shall be elected on a full-time basis and shall be prohibited from the private practice of law while holding office.

It seems clear that this statutory prohibition does not contain an exception which would permit the completion, during the public defender's term of office, of matters begun in private practice before taking office. I have recently held in AGO 073-242 that it is not proper for an attorney who becomes a legislative employee to continue handling a transaction begun in private practice before his employment with the legislature. This conclusion was required under §11.26(1)(d), F. S., which states:

(1) No employee of the legislature shall:

* * * * *

(d) During his employment by any division of the legislature, be associated or interested in the private practice of law in any manner

Therefore, pending legislative or judicial clarification, I am of the view that §27.51(3), *supra*, requires a public defender to disassociate himself completely from the private practice of law so long as he is a public defender. Accordingly, your question is answered in the negative.

073-461—December 13, 1973

ADULT RIGHTS LAW**EMPLOYMENT AS MUNICIPAL FIREMEN AND POLICEMEN**

To: *Fred E. Meincke, Civil Service Director, Daytona Beach*

Prepared by: *Joseph C. Mellichamp III, Assistant Attorney General*

QUESTION:

May persons eighteen, nineteen, or twenty years of age apply for employment, and serve, as municipal firemen or policemen?

SUMMARY:

Under the provisions of Ch. 73-21, Laws of Florida, persons eighteen, nineteen, or twenty years of age, if otherwise qualified, may apply for employment, and serve, as municipal firemen or policemen.

Section 2 of Ch. 73-21, Laws of Florida [§743.07, F. S.], provides that:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older

except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act. . . .

Further, §4 of Ch. 73-21 states: "Any law inconsistent herewith is hereby repealed to the extent of such inconsistency. . . ."

Thus, inasmuch as the Adult Rights Law, [§743.07, F. S.] (effective July 1, 1973) removes the disability of nonage for all persons in this state who are eighteen years of age or older and provides that they shall enjoy and suffer the rights, privilege and obligations of all persons twenty-one years of age or older, it must be concluded that persons eighteen, nineteen, or twenty years of age, if otherwise qualified, may apply for employment and service as municipal firemen or policemen.

073-462—December 13, 1973

COUNTIES

POWER TO AMEND SPECIAL ACT REGULATING FORMATION OF SPECIAL DISTRICT

To: *J. Clint Brown, Hillsborough County Attorney, Tampa*

Prepared by: *Sydney H. McKenzie III, Assistant Attorney General*

QUESTION:

May a county, by ordinance amending a special law passed by the legislature prior to the 1968 Constitution, provide for petition by electors for the creation of a street lighting district in an unincorporated area and provide for the levy of a special assessment in a special street lighting district?

SUMMARY:

A county may, by ordinance, amend a special law relating to the unincorporated area of the county, preexistent to the 1968 Constitution, authorizing the creation of a special street lighting district in an unincorporated area of the county, so long as such district is not an autonomous agency independent of the county. The amendment may properly permit creation of the district without a referendum or election and the effecting of special assessments, as opposed to ad valorem taxes in such districts. In the alternative, the county might ignore the existing enabling legislation and create such a district pursuant to §125.01(1)(q), F. S.

Your question is answered in the affirmative.

It should be noted initially that, while your opinion request refers to compliance with Ch. 125.01, F. S., regarding the general powers of the county to create and levy taxes in a special district, the ordinance submitted in fact amends Ch. 30830, 1955, Laws of Florida, as amended by Chs. 61-2239 and 65-1646, Laws of Florida, and is not controlled by the provisions of §125.01(1)(q), F. S. Chapter 30830, *supra*, reads in pertinent part:

Section 2. Creation of Districts: Special street lighting improvement districts may be created and established in unincorporated areas in Hillsborough County under the provisions of this Act. . . .

Section 2 goes on to set out a procedure for a petition to the board of county commissioners by a majority of the qualified electors of a proposed district for the creation of the district and levy of special assessments. The board is then required