

may be accorded elderly people based either on economic factors, *i.e.*, financial hardship and financial exigencies of the elderly, or on a broader social concern for geriatric problems. *See* Bd. of Assessors of Everett v. Formosi, 212 N.E.2d 210 (Mass. 1965); Kirby v. Bd. of Assessors of Medford, 215 N.E.2d 99 (Mass. 1966); Jasper v. Mease Manor, Inc., 208 So.2d 821 (Fla. 1968); Art. VII, §2, State Const. This rationale affirms the general principle that there exists a large discretion to establish reasonable classifications when delineating objects of taxation. *Cf.*, Jefferson v. Hackney, 406 U.S. 535 (1972).

In *Doran v. Cullerton*, 283 N.E.2d (Ill. 1972), the court considered the statutory tax exemption for individuals over sixty-five years of age, and concluded at p. 868:

Initially we find that the classification of individuals on the basis of under and over 65 years of age is rational and reasonable for at this age many persons retire and their sole financial support may be derived from social security or private pensions. . . . Moreover, various Federal and State exemptions are granted to those over the age of 65 without regard to the individual's personal wealth.

See Jasper v. Mease Manor, Inc., supra.

In accord with the referenced judicial authority, the proposed joint resolution appears to me to be constitutionally proper.

073-35—February 28, 1973

COUNTY OFFICERS

COMPENSATION UNDER SECTION 145.121(2)(c), F. S. (1972 Supp.)

To: *L. Victor Desguin, Charlotte County Tax Collector, Punta Gorda*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

Under §145.121(2)(c), F. S. (1972 Supp.), does a county official's base salary remain at the level fixed by the applicable statute in effect immediately prior to July 1, 1969?

SUMMARY:

Under §145.121(2)(c), F. S. (1972 Supp.), a county official's compensation is computed upon the basis of his 1967 statutory salary, plus ex officio personal income from fees, commissions, and other compensation actually received during the fiscal year.

Your question is answered in the affirmative.

Chapter 145, F. S., was amended in 1969 to fix the salaries of county officials at a uniform rate throughout the state, based upon the population of the county. Section 145.121(2)(c), as amended by Ch. 70-455, Laws of Florida, provides that those officials whose total compensation (salary plus ex officio personal income from fees, commissions, and other compensation) was in excess of the salary payable under the act "shall continue to be compensated under the terms and conditions which prevailed immediately prior to July 1, 1969, until the expiration of their present term of office" (The statute was amended in 1972, Ch. 72-240, to extend the period during which such compensation should be paid, but it was not otherwise changed.)

My predecessor in office consistently ruled that a county official who is

entitled to be compensated under §145.121(2)(c), F. S. (1972 Supp.), should have his compensation computed upon the basis of the base salary fixed by law for the office under Ch. 145, F. S. 1967. This was made clear in the earliest opinions of my predecessor interpreting the 1969 amendments to Ch. 145—AGO's 069-136, 069-137, and 070-105—as well as in numerous informal opinions to various county officials. In AGO 070-105 it was said that the statute meant that the subsection (2)(c) official

. . . shall continue to receive his base salary as prescribed by Ch. 145, F. S. 1967, plus all the *ex officio* personal income from fees and commissions earned by him, during the remainder of his term of office—assuming, of course, that the base salary rate is not increased, either by law or by a population increase, to an amount *in excess of the total compensation earned during the preceding fiscal year*. . . . (Emphasis supplied.)

As noted in AGO 070-105, *supra*, if the statutory salary is increased so as to exceed the total compensation formerly received under the subsection (2)(c) formula, the official will be entitled to be compensated at the higher rate. However, the subsection (2)(c) formula must be based on the 1967 statutory base salary under what seems to me to be the clear and unambiguous language of the statute. The legislature has met in several sessions since the 1969 and 1970 opinions were rendered; and, this being so, I would be reluctant to recede from the opinions of my predecessor in office, even if I were inclined to do so. On the contrary, I have reaffirmed those opinions in AGO 072-185.

073-36—March 2, 1973

TAXATION

AD VALOREM TAX EXEMPTION—PERSONS WHO HAVE LOST A LIMB NOT CONSIDERED TOTALLY AND PERMANENTLY DISABLED

To: Clark Maxwell, Brevard County Tax Assessor, Titusville

Prepared by: Winifred L. Wentworth, Assistant Attorney General and David M. Hudson, Legal Intern

QUESTIONS:

1. May a person who has lost a limb, but who is not considered totally and permanently disabled, and the loss of the limb is not "service connected," be granted a \$500 ad valorem tax exemption under Art. VII, §3(b), State Const., and §196.202, F. S.?
2. If such an individual had been granted an exemption under prior constitutional and statutory authority [Art. IX, §9, State Const. 1885, and §192.06(7), F. S. 1967], is it necessary that such previous exemptions granted be recalled and disallowed?
3. For purposes of allowing an exemption under §196.202, F. S., may a tax assessor accept certification of total and permanent disability from the Federal Social Security Administration under §196.012(10), F. S., as amended by Ch. 72-367, Laws of Florida?

SUMMARY:

A person who has lost "a limb" but who is not certified as "totally and permanently disabled" and the loss of the limb is not "service connected" is not entitled to the tax exemption provided by Art. VII, §3(b), State Const., and §196.202, F. S., and applications for the