

QUESTION:

Is the county tax collector legislatively designated the agent of the Department of Revenue for the purposes of collecting taxes under, and enforcing, the "Florida Revenue Act of 1949" by virtue of the passage of Ch. 71-360, Laws of Florida [Ch. 212, F. S.]?

SUMMARY:

The county tax collectors are not designated the agents of the Department of Revenue for sales tax collection and enforcement except when county tax collectors receive applications for title or registration certificates or licenses for boats or vehicles pursuant to §212.06 (10), F. S.

Your question is answered in the negative with the exception as noted below. Section 212.06(10), F. S. [Ch. 71-360, Laws of Florida], provides as follows:

No title certificate shall be issued on any boat or any vehicle, or, if no title is required by law, no license or registration shall be issued for any boat or vehicle, unless there be filed with such application for title certificate or license or registration certificate a receipt issued by an authorized dealer or a designated agent of the department of revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. *For the purpose of enforcing this provision*, all county tax collectors . . . are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. . . . (Emphasis supplied.)

By its terms, the above-quoted statute imposes upon the county tax collector the duty not to issue a title certificate, license, or registration for any boat or vehicle unless the application for same includes a receipt issued by a dealer or agent of the Department of Revenue showing the payment of the sales tax. Since the county tax collectors are specifically named as agents for the department in enforcing §212.06, F. S., I conclude that they may be required by the department to collect the sales tax and remit same to the department. *Cf.* §§320.03, 320.04, and 371.051, F. S.

However, as stated in §212.06, *supra*, tax collectors are required to perform duties of insuring the payment of the sales tax *only for the purpose of enforcing* §212.06. I find nothing in Ch. 212, F. S., or any other law, that attempts to impose on the county tax collectors the duty of collecting or enforcing other portions of the state sales tax law.

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STANDARDS OF CONDUCT

LEGISLATOR AS EMPLOYER OF FIRM—FILING STATEMENT
OF INTEREST; STATE CONTRACT

To: State Legislator

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QUESTIONS:

1. Is a legislator required by §112.313 (2), F. S., to file a sworn statement with the Department of State disclosing his interest as chief engineer of an engineering company?
2. May the engineering company by which a legislator is

employed enter into contracts with the State of Florida for professional services?

SUMMARY:

Under the Standards of Conduct Law, §112.314 (1), F. S., an engineering firm by which a legislator is employed as chief engineer may enter into a contract with the state or local governmental entities for professional services. However, the legislator should file with the Department of State a sworn statement disclosing his interest in the firm, as required by §112.313 (2), *id.*

AS TO QUESTION 1:

Section 112.313 (2), *supra*, requires a public officer or employee, including specifically "any legislator or legislative employee," to file a sworn statement disclosing an interest as "an officer, director, agent, member, or owner of a controlling interest" in a business entity which is "subject to the regulation of, or which has substantial business commitments from any state agency, county, city, or other political subdivision of the state." I have heretofore ruled in AGO 072-172 that a professional firm, partnership, or association (or corporation, in a proper case) is a "business entity" within the purview of this section; and your position as chief engineer of the firm apparently brings you within the purview of the law as its "agent." In AGO 073-328, I concluded that the legislature used the term "agent" in its usual sense in the Standards of Conduct Law, §112.314 (1), F. S.; and, in its ordinary sense, an agency is "the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act." [See] 2A C.J.S. *Agency* §44, p. 441. *Accord:* *Lynch v. Walker*, 31 So.2d 268 (Fla. 1947).

Accordingly, as the business entity—a professional engineering firm—by which you are employed is subject to regulation by the state, *see* Ch. 471, F. S., you are required to file with the Department of State a sworn statement disclosing your employment with the company as chief engineer, without regard to whether the firm has substantial business commitments with local governmental units. The "interest" that you are required to disclose is your personal interest in the business entity; and there is no requirement for disclosure of the nature of the business commitments of the business entity with the state or local governments.

Your first question is answered in the affirmative.

AS TO QUESTION 2:

The section of the Standards of Conduct Law prohibiting a public officer, or the public body of which he is a member, from entering into business transactions with a business entity in which the member has an interest, §112.314 (1), *supra*, does not in terms apply to a legislator; and, as noted in AGO 073-258, my predecessor in office and I have consistently ruled that there is no statute which prohibits a legislator, or a firm in which he has an interest, from contracting to perform public works. Thus, in AGO 071-264, it was held that a construction firm of which a legislator is president may engage in a business transaction with a housing authority; and in 073-258, *supra*, it was ruled that the professional firm of which a legislator is a member could enter into a contract with the state for professional services.

Accordingly, your second question is answered in the affirmative.