

the Governmental Reorganization Act), the Division of Communications of the Department of General Services has established a Centrex telephone communications service for state agencies in the Tallahassee exchange area (the Capital Center Centrex system), under an agreement with the Southeastern Telephone Company for the use of its facilities and equipment at rates and charges approved by the Florida Public Service Commission. The Board of County Commissioners of Leon County has requested that county offices be served from the Capital Center Centrex telephone system. The existing agreement with the telephone company, and the tariffs approved by the Florida Public Service Commission, appear to be applicable only to the service supplied to state agencies in this area; however, there appears to be ample *statutory* authority for county offices to utilize the state Centrex system.

Section 287.25, *supra*, authorizes the Division of Communications:

(18) To provide a means whereby political subdivisions of the state may utilize the state communications system upon such terms and under such conditions as the division may establish . . . .

And §287.26, *id.*, provides that any reference to "communications" or "communications systems" shall include "all facilities and equipment *owned, leased, or used* by all agencies and political subdivisions of state government." (Emphasis supplied.)

A county is, of course, a political subdivision of the state—both by definition, §1.01(9), F. S., and by tradition as an "arm" of the state, with the subordinate attributes of sovereignty in the performance of governmental functions at the local level. *See City of Tampa v. Easton*, 198 So. 753 (Fla. 1940). And since, by definition, a state communications system includes equipment and facilities *leased or used* by state agencies, I have the view that the state's Centrex system may validly be "utilized" by the county for its county offices.

Accordingly, your question is answered in the affirmative.

073-406—November 6, 1973

## COURTS

### EXPENSE OF HOUSING PRISONER NOT TAXABLE COST IN CRIMINAL PROSECUTION

To: Alfred T. Airth, City Attorney, Live Oak

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

#### QUESTION:

May the charge of two dollars and fifty cents per day paid by the city to the sheriff for housing a city prisoner be taxed as costs upon conviction of such prisoner for violation of a city ordinance?

#### SUMMARY:

The charge of two dollars and fifty cents per day paid by a city to the sheriff for housing a city prisoner who has been charged with violating a municipal ordinance may not be taxed as costs upon the conviction of such prisoner in a county court for violation of the ordinance.

There is nothing in revised Art. V, State Const., nor in the statute implementing it, Ch. 72-404, Laws of Florida, to indicate that a municipality is to be relieved of its primary responsibility for paying the cost of enforcing its municipal ordinances when it abolishes its municipal court. And in AGO 072-259, in ruling that a city which has abolished its municipal court should continue to maintain security

facilities to house prisoners charged with violations of municipal ordinances, or should enter into an agreement with the county to house such prisoners in the county jail, it was indicated that the fines and forfeitures assessed by a county court for violations of municipal ordinances tried in that court when its own court has been abolished and paid back to the city, monthly, are the funds from which the city's expenses in enforcing its ordinances are to be paid, including the cost of securing its prisoners. *Accord:* Attorney General Opinion 073-81.

As noted in AGO 073-100, the assessment of costs in a criminal case in a county court against a solvent convicted defendant

. . . is specifically provided for in Ch. 939, F. S., and the assessment and disbursement of said costs are provided for in §§34.041, 34.191 and 939.17. Sheriffs' costs previously permitted under the statutory authority of §30.23, F. S., can no longer be assessed as court costs or considered as a cost item in any manner.

I find nothing in the statutes referred to or any other statute that would indicate that the cost of housing municipal prisoners in the county jail is an allowable item of taxable costs. And it is well settled in this state that the recovery and allowance of costs in criminal cases "rest entirely on statutory provisions and no right to or liability for costs exists in the absence of statutory authorization." *Wood v. City of Jacksonville*, 248 So.2d 176 (1 D.C.A., Fla. 1971), and authorities cited. *Accord:* 62 C.J.S. *Municipal Corporations* §381, p. 726, as to proceedings for violation of municipal ordinances. Section 939.01, F. S., allows as taxable costs in criminal cases "the costs of prosecution . . . ." (Emphasis supplied.) And the provision of §34.191(3), F. S., authorizing the chief judge of the circuit to direct the county to "distribute reasonable court costs to the municipality" relates only to costs "of operation of the county court, including any cost of prosecution." It seems clear that this would not include any cost incurred by the city in housing its prisoners. Thus, in the absence of any statutory authorization, the cost of housing a prisoner may not be taxed as costs.

Your question is, therefore, answered in the negative.

073-407—November 7, 1973

## ELECTIONS

### POLITICAL COMMITTEES—DEFINITION; CONTRIBUTION LIMITS

To: Richard (Dick) Stone, Secretary of State, Tallahassee

Prepared by: Staff

#### QUESTIONS:

1. Is a civic or business organization, such as a chamber of commerce, which supports a local candidate or issue, subject to the provisions of Ch. 73-128, Laws of Florida, as a "political committee" as set forth in §3, Ch. 73-128, or may it be considered as a "committee of continuous existence" as provided by §4, Ch. 73-128?

2. If such an organization has a group within its organization which supports a local candidate or issue, would such a group fall within either of the above categories?

3. If neither of the above groups or organizations falls within the above categories, would single or repeated endorsements and expenditures require that such committee be considered as coming within the scope of §3 or §4 of the act as either a "political committee" or a "committee of continuous existence"?