

073-366—October 1, 1973

## SUNSHINE LAW

APPLICABILITY TO BOARD OF GOVERNORS OF  
MUNICIPAL COUNTRY CLUB*To: Thomas H. Anderson, Miami Shores Village Attorney, Miami**Prepared by: Jan Dunn, Assistant Attorney General*

## QUESTION:

Is the board of governors of a municipal country club subject to the Sunshine Law?

## SUMMARY:

The board of governors of a municipal country club is subject to the Sunshine Law.

Your question is answered in the affirmative.

According to your letter, the charter of Miami Shores Village provides that the village shall have the power to do certain specified things, including the building of a golf course. Under this authority the village built a country club which is managed by a manager who acts under the village manager and the village council. The council now wishes to create a board of governors for the country club in order to more efficiently transact the business of the club.

Section 286.011, F. S., the Sunshine Law, requires that:

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or any political subdivision, except as otherwise provided in the constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, regulation or formal action shall be considered binding except as taken or made at such meeting.

Both the village council and the board of governors are covered under this definition since they are both boards of a municipal corporation. The council has final control over all village business—including the country club. By creating a board of governors, the council would essentially be delegating its duty of running the club to the board. It is axiomatic that a body cannot do indirectly that which it cannot do directly.

073-367—October 2, 1973

## POLICE OFFICERS

PROPRIETY OF ACCEPTING REWARD FROM BONDING COMPANY  
FOR TURNING IN BOND JUMPERS*To: Orlando P. Nastri, Chief of Police, Pembroke Pines**Prepared by: Wallace E. Allbritton, Assistant Attorney General*

## QUESTION:

Is it unlawful for a police officer to receive a reward for turning in bond jumpers to bonding companies?

## SUMMARY:

Neither §648.44, F. S., nor the decisional case law of this state

prohibits a police officer from accepting a reward from a bonding company for turning in a bond jumper.

This question is answered in the negative. Generally, an officer is not entitled to a reward for the performance of services which are within the scope of his official duties, but it is otherwise as to services or acts outside the scope of his duty. [See] 77 C. J. S. *Rewards* §36, p. 381.

The case of *Curran v. Collier*, 104 S.W. 572 (Indian Terr. 1907), is directly in point. There, the court held that a reward offered by a surety on a bail bond for the delivery of the principal may be claimed by an officer. I think the reasoning of the court in support of this decision merits quoting:

The reward was offered by a private individual for his sole special benefit, and to save him harmless as surety upon a bail bond.

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The service manifestly was performed for the private use and benefit of appellant, upon a promise to pay whomsoever should deliver to him the body of his principal on the bond the \$100 reward.

\* \* \* \* \*

This was solely for the benefit and use of appellant. He could, upon receiving the body of Faught, have released him, to go at his pleasure, without concern to the government, so long as it was satisfied with the sufficiency of the bail. His promise to pay the reward of \$100 was for his individual benefit, and not against any rule of public policy or positive law.[104 S.W. at 572-573.]

It is settled law in this jurisdiction that one under bail is in the vicarious custody of his bondsman. *Register v. Barton*, 75 So.2d 187 (Fla. 1954). And a principal may be apprehended by his bondsman even under extreme circumstances. *Taylor v. Taintor*, 83 U.S. 366 (1872). Also the surety is permitted to delegate to another person the right to arrest the principal. *Cartee v. State*, 139 So. 618 (Miss. 1932). In Florida, the surety has a statutory right to arrest the principal before a forfeiture of the bond occurs. Section 903.22, F. S., provides:

A surety may arrest the defendant before a forfeiture of the bond for the purpose of surrendering him or he may authorize a peace officer to make the arrest by indorsing the authorization on a certified copy of the bond.

I do not believe that the provisions of §648.44, F. S., prohibit a bail bondsman or surety from offering a reward or a police officer from receiving same for turning in bond jumpers. This position gains support when the statute is compared with §§838.06 and 838.071, F. S. 1971. For example, the latter statute provides:

It is unlawful for any person to pay, give, offer or promise to any public officer, agent, servant or employee any reward, compensation or other remuneration other than those provided by law, for the past, present or future performance, nonperformance or violation of any act, rule or regulation that may be or may have been incumbent upon such public officer, agent, servant or employee to administer, respect, perform, execute or have executed; *provided that nothing herein shall be considered to preclude any person from paying, giving, offering or promising to any sheriff, deputy sheriff, constable, deputy constable, city marshal or policeman for services performed or to be performed in apprehending any criminal . . . .* (Emphasis supplied.)

In the light of the foregoing, it is my considered opinion that in the absence of express statutory prohibition or decisional case law, a police officer neither violates public policy nor the law of this jurisdiction by accepting a reward offered by a bail bondsman for the apprehension of bond jumpers.

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## TAXATION

### COMPENSATION OF TAX ASSESSOR BY MUNICIPALITIES

To: Joe Allen, Monroe County Tax Assessor, Key West

Prepared by: J. Kendrick Tucker, Assistant Attorney General

#### QUESTION:

May the Monroe County Tax Assessor be compensated for services rendered to municipalities in Monroe County for the year 1973?

#### SUMMARY:

The Monroe County Tax Assessor may be personally compensated in full for services rendered to municipalities in Monroe County for only those services rendered prior to October 1, 1973, due to the implementation of the new salary schedule by Ch. 73-173, Laws of Florida, effective October 1, 1973, and its prohibition of other compensation to tax assessors except that of the salary schedule.

Your question is answered in the affirmative with the qualifications as noted below.

Chapter 69-1313, Laws of Florida, provides as follows:

Section 6. The county tax assessor shall be allowed and paid by each municipality whose taxes are assessed and collected upon such tax assessment rolls, a sum of money equal to three per centum (3%) of the total taxes assessed upon such rolls for such municipality . . . and to provide additional compensation for the county tax assessor for his services in assessing the taxes for such municipality, such additional compensation to be one-eighth (1/8) of said sums of money, and such additional compensation shall not be subject to any limitation or restriction of any law whether general, local or special, nor shall said tax assessor be required to return as excess fees any part of said additional compensation. . . .

The Monroe County Tax Assessor has been compensated pursuant to Ch. 69-1313, *supra*, since 1969. However, Ch. 69-1313, *supra* and Ch. 65-1923, Laws of Florida, relating to tax assessments in Monroe County were repealed, effective January 1, 1974, by Ch. 73-552, Laws of Florida. Thus, this repealing statute cannot affect compensation earned for and during the year of 1973; *see also*, §8, Ch. 73-172, Laws of Florida [§192.091(1) and (4), F. S.], effective January 1, 1974, which eliminates municipalities from having to pay the tax assessor for his services in assessing municipal property.

However, during the 1973 Session of the Legislature, the compensation for tax assessors was changed to a new salary schedule and all special acts authorizing personal compensation for fees or commissions to assessors were repealed effective October 1, 1973, by §13, Ch. 73-173, Laws of Florida.

Chapter 73-173, *supra*, provides in pertinent part as follows:

Section 13. All general acts and all special and general acts of local