

Sunshine Law, firefighters' insurance trust fund board

Number: INFORMAL

Date: December 31, 1998

Mr. Richard M. Weiner
Sugarman & Susskind, P.A.
2801 Ponce De Leon Boulevard
Suite 750
Coral Gables, Florida 33134

RE: GOVERNMENT IN THE SUNSHINE LAW--INSURANCE--TRUST FUNDS--
FIREFIGHTERS--application of the sunshine law to board of trustees of fire fighters' insurance trust fund. s. 286.011, Fla. Stat.

Dear Mr. Weiner:

Thank you for contacting this office regarding the application of the Government in the Sunshine Law to the Board of Trustees of the Florida Fire Fighters Insurance Trust Fund. Attorney General Butterworth has asked me to respond to your letter.

According to information you have submitted, the Florida Fire Fighters Insurance Trust Fund (the "Trust Fund") took effect on July 1, 1986, pursuant to an Agreement and Declaration of Trust. The Trust Fund was established to provide health and other benefits to employees of fire departments in municipalities, counties, taxing districts and other political subdivisions of the State of Florida. The Trust Fund is governed by three trustees: one appointed from the Coral Gables Professional Fire Fighters Local 1210, I.A.F.F.; one from the Hialeah Professional Fire Fighters Local 1102, I.A.F.F.; and one from the Miami Beach Professional Fire Fighters Local 1510, I.A.F.F.

The Trust Fund does not receive contributions directly from governmental employees but receives contributions from other trust funds established and administered by employees of the fire departments of the cities of Coral Gables, Hialeah, Miami Beach and Melbourne, Florida. The board has delegated control and responsibility for the day-to-day administration of the Trust Fund to a managed care group. This organization reviews all appeals of benefit denials and employs its own professional advisors and service providers to assist in fulfilling the obligations and responsibilities of the trust. According to your letter, "[t]he only involvement of the municipalities which sponsor the participating trust funds, is their respective payment of contributions to their respective trust funds on behalf of their employees serving in their respective municipal-based fire departments."

This office has issued several opinions recently involving pension plans and insurance trust funds which would appear to involve similar factual situations to that you have presented. I am enclosing copies of Attorney General's Opinion 98-01 (1998) and 97-32 (1997) for your consideration. Both opinions make it clear that in determining which entities are covered by section 286.011, Florida Statutes, the Legislature sought to extend application so as to cover

"every 'board or commission' of the state, or of any county or political subdivision over which it has dominion and control." [1] The law is to be liberally construed to give effect to its public purpose. [2]

In Attorney General's Opinion 98-01 (1998), this office considered the applicability of the Government in the Sunshine Law to the Fort Lauderdale Fire Fighters Insurance Trust Fund and determined that the board of directors of the trust fund were acting on behalf of the city in collecting and administering employee contributions and were accomplishing a public purpose. Information and data provided by the city was used to compile records of the funds and the moneys being administered were public funds contributed on behalf of public employees. The opinion notes that a responsibility of a governmental agency may not be transferred to a private entity with the effect of creating an exemption from the open meetings requirement of section 286.011, Florida Statutes.

While the situation presented by your most recent letter is not identical, the similarities are significant and it would appear that the reasoning of the 1998 opinion and others of this office on the Government in the Sunshine Law would be applicable.

I trust that these informal comments will be of assistance to you in resolving this matter.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

Enclosures

[1] See, e.g., *Times Publishing Company v. Williams*, 222 So. 2d 470, 473 (Fla. 2d DCA 1969); and *City of Miami Beach v. Berns*, 245 So. 2d 38 (Fla. 1971); and see Ops. Att'y Gen. Fla. 92-17 (1992) and 97-32 (1997).

[2] See, e.g., *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693 (Fla. 1969); and *Wood v. Marston*, 442 So. 2d 934 (Fla. 1983).