

Library Board, existence after Art. V revision

Number: AGO 2004-36

Date: July 02, 2004

Subject:
Library Board, existence after Art. V revision

The Honorable William J. "Jere" Tolton, Jr.
Judge, First Judicial Circuit and Chair, Board of
Trustees of the Okaloosa County Law Library
1250 Eglin Parkway, Courthouse Annex
Shalimar, Florida 32579

RE: COURTS–LAW LIBRARY–SPECIAL ACT–COUNTIES–PUBLIC FUNDS–abolition of one of the funding sources for law library by legislative implementation of Revision 7 to Art. V, Fla. Const., does not abolish law library board when other sources of funding are available. Ch. 67-1787, Laws of Fla.; ss. 88 and 91, Ch. 04-265, Laws of Fla.; s. 939.185, Fla. Stat.

Dear Judge Tolton:

As Chair of the Board of Trustees of the Okaloosa County Law Library, you ask substantially the following question:

In light of the changes in the funding of the courts mandated by the revision to Article V, section 14, Florida Constitution, and the abolition of a filing fee imposed by the clerk that funded the Okaloosa County Law Library, effective July 1, 2004, has the Board of Trustees of the Okaloosa County Law Library also been abolished, effective July 1, 2004?

The library board was created by special act,[1] which provides for the establishment and maintenance of a central law library for the use of county officials and the judges and officers of the several courts. The special act, Chapter 67-1787, Laws of Florida, authorizes the clerk of the circuit court, when authorized by the board of county commissioners, to collect one dollar as costs in civil cases.[2] In addition, the board of county commissioners is authorized to appropriate available funds to the board of trustees for the library, which is declared to be a general county purpose.[3]

In light of the changes in the funding of courts resulting from the 1998 revision to Article V, Florida Constitution, a question has been raised regarding the continuance of the library board.[4] You state that the filing fee created to establish and maintain the law library will be abolished on June 30, 2004. Section 91, Chapter 04-265, Laws of Florida, provides that fees, service charges and costs imposed by the governing body of a county by ordinance and special act pursuant to the authority provided in sections 28.2401, 28.241, 34.041, 938.17, and 938.19, Florida Statutes, on or before June 30, 2004, are repealed and abolished, effective July 1, 2004.[5]

The 2004 Legislature, however, adopted legislation that authorizes a board of county commissioners to adopt by ordinance an additional court cost, not to exceed \$65, to be imposed by the court when a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor or criminal traffic offense.[6] Twenty-five percent of the amount collected is to be allocated to fund personnel and legal materials for the public as part of a law library.[7]

I am not aware of, nor have you brought to the attention of this office, any legislation seeking to repeal Chapter 67-1787, Laws of Florida; nor does this office have the authority to declare a law repealed. While one of the funding sources has apparently been repealed by the Legislature, effective July 1, 2004, the enabling legislation for the law library also authorizes funding by the county commission. Moreover, as noted above, the 2004 Legislature has specifically authorized a board of county commissioners to impose a court cost on certain offenses, a portion of which may be applied to fund personnel and legal materials for the public as part of a law library.

Accordingly, I am of the opinion that while the filing fee imposed by the clerk that funded the Okaloosa County Law Library has been abolished effective July 1, 2004, the Board of Trustees of the Okaloosa County Law Library has not been abolished.

Sincerely,

Charlie Crist
Attorney General

CC/tjw

[1] Chapter 67-1787, Laws of Fla, as amended by Ch. 89-416, Laws of Fla. Section 1 of the special act, as amended, provides that the board shall consist of, among others, the administrative judge of the county.

[2] Section 2, Ch. 67-1787, Laws of Fla.

[3] Section 3, Ch. 67-1787, Laws of Fla.

[4] Revision 7, proposed by the Constitution Revision Commission and adopted during the November 1998 general election, altered the funding of the court system. Pursuant to Art. XII, s. 25(b), Fla. Const., the amendment to s. 14, Art. V, Fla. Const., by Revision 7 (1998) is to "be fully effectuated by July 1, 2004."

[5] Section 91, Ch. 04-265, Laws of Fla., amends s. 149, Chapter 03-402, Laws of Florida, which, effective July 1, 2004, abolished fees and service charges imposed by a county governing body by ordinance and special law pursuant to the authority granted in ss. 28.242-34.041, Fla. Stat., prior to June 30, 2004,. *And see* s. 28.241(1)(a), Fla. Stat., as amended by s. 32, Ch. 03-402, Laws of Fla., effective July 1, 2004, providing for filing fees in civil actions in circuit court and providing in part that "[n]o additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized by general law"; and s. 34.041,

Fla. Stat., as amended by s. 52, Ch. 03-402, Laws of Fla., effective July 1, 2004, deleting language authorizing service charges imposed by local or special law to provide for and maintain, among others, a law library.

[6] Section 88, Ch. 04-265, Laws of Fla., creating 939.185, Fla. Stat. (2004). Pursuant to s. 109, Ch. 04-265, Laws of Fla., the act, except as specifically provided therein, takes effect July 1, 2004.

[7] Section 939.185(1)(a)3., Fla. Stat.(2004), effective July 1, 2004.