

Special act limits district officer's travel expenses

Number: AGO 95-79

Date: December 14, 1995

Subject:
Special act limits district officer's travel expenses

Mr. James G. Aucamp
District Manager
Central Broward Drainage District
8020 Stirling Road
Hollywood, Florida 33024

RE: TRAVEL EXPENSES--SPECIAL DISTRICTS--SPECIAL ACTS--limitation on expenses contained in special act prevails over travel expense law in general law. s. 112.061, Fla. Stat.; Ch. 61-1439, Laws of Florida, as amended.

Dear Mr. Aucamp:

On behalf of the Board of Commissioners of the Central Broward Drainage District, you ask substantially the following question:

May a commissioner of the Central Broward Drainage District be reimbursed for travel expenses incurred while attending a meeting of the Association of Special Districts, in excess of the \$100 limitation provided in the district's charter?

In sum:

A commissioner of the Central Broward Drainage District may not be reimbursed for travel expenses in excess of \$100 for attendance at a meeting of the Association of Special Districts.

Section 112.061, Florida Statutes, governs the per diem and travel expenses of public officers and employees in this state. With the enactment of section 112.061, the Legislature sought to establish uniform maximum rates and limitations, with certain exceptions, applicable to public officers, employees, and authorized persons whose travel expenses are paid by a public agency.[1] Section 112.061(1)(b)2., Florida Statutes, however, expressly states that "[t]he provisions of any special or local law, present or future, shall prevail over any conflicting provisions in this section, but only to the extent of the conflict."

Chapter 61-1439, Laws of Florida, as amended,[2] created the Central Broward Drainage District as a drainage and reclamation district. The compensation of the board of commissioners, the district's governing board, is prescribed by section 4.g. of chapter 61-1439, as amended, which provides:

"The compensation of each commissioner shall be set by appropriate resolution of the board of

commissioners, but shall not exceed four hundred (\$400) dollars per month. In addition to the aforescribed compensation for the commissioners, the board of commissioners may reimburse a commissioner for expenses up to one hundred (\$100) dollars per month."

As originally adopted in 1961, the limitation on expenses was \$75 per month. It was subsequently increased by the Legislature in 1979.[3] The Legislature has also increased the limitation on the monthly compensation that may be paid to a commissioner.[4]

In Attorney General Opinion 67-20, this office considered the impact of a special act providing that the commissioners of an anti-mosquito district were entitled to the per diem payment of \$20 per day for actual expenses. Stating that the special act was in conflict with section 112.061, Florida Statutes, this office concluded that the provisions of the special act controlled over the travel and per diem provisions of that section.

Similarly, the special act has limited the reimbursable expenses of a commissioner of the Central Broward Drainage District to \$100 per month. I find nothing in the act that would exclude travel expenses from such limitation. Therefore, to the extent that section 112.061 would authorize reimbursement for travel expenses in excess of this amount, such provisions would, in my opinion, be in conflict with the special act. Accordingly, to the extent of such conflict, the provisions of this special act would prevail.

Therefore, I am of the opinion that a commissioner of the Central Broward Drainage District may not be reimbursed for travel expenses in excess of \$100 for attendance at a meeting of the Association of Special Districts.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] Section 112.061(1)(a), Fla. Stat. *And see* s. 112.061(2)(a), Fla. Stat. (1994 Supp.), defining "Agency or public agency" to mean "Any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law."

[2] *See, e.g.*, Chs. 65-1006, 67-1002, 70-479, 79-432, 85-388, 86-363, 86-359, 80-462, 88-523, 91-350 and 94-426, Laws of Florida, amending Ch. 61-1439, Laws of Florida.

[3] *See* s. 4, Ch. 79-432, Laws of Florida (increasing limitation of expenses from \$75 to \$100 per month).

[4] *See, e.g.*, Ch. s. 1, 94-426, Laws of Florida (increasing limitation on compensation to \$400

per month); Ch. 91-350, Laws of Florida; Ch. 86-363, Laws of Florida.