

Counties, closure of county courthouse

Number: INFORMAL

Date: November 19, 1996

Ms. Winnie Hicks, Administrative Assistant
Dixie County Board of County Commissioners
Post Office Box 2600
Cross City, Florida 32628

Dear Ms. Hicks:

On behalf of the county commission chairman, you inquire about who has jurisdiction over the county courthouse regarding the hours it is open and closed and in the case of an emergency, who determines whether the courthouse should be closed to the public.

You have not, however, provided this office with any specific factual situation. Accordingly, this office may only comment generally. Moreover, it must be noted that the Attorney General is statutorily authorized to comment only to public officials on questions relating to their own official duties. See section 16.01(3), Florida Statutes, and this office's Statement Concerning Attorney General Opinions, copies of which are enclosed for your information. Accordingly, this office cannot comment upon the authority of another public officer such as the court or another county constitutional officer to exercise control over his offices located within the county building except at the request of that officer.

Informally, however, and in an effort to be of assistance, I would generally note that under section 125.01(1)(c), Florida Statutes, the board of county commissioners as the legislative and governing body of a county has the power to carry on county government which, to the extent not inconsistent with general or special law, includes, but is not restricted to, the power to "[p]rovide and maintain county buildings." In Attorney General Opinion 64-63, this office stated:

"Unless otherwise provided by the statutes of this state, the board of county commissioners of the several counties in Florida 'in their control over county buildings,' and other properties 'have the duty, as well as the discretionary power, to designate or appropriate rooms in the county buildings or elsewhere for the use of county officers. This power is a continuing one, not exhausted by a single exercise, and the assignment of offices may be changed when, in the judgment of the authorities, the public convenience will be promoted by the change, but the exercise of the power is subject to the inherent power of the courts to control court facilities, and to whatever rights and powers are conferred by statute on other county officers.'" [citation omitted]

Chapter 252, Florida Statutes, which addresses emergency management within the state, provides in section 252.38(3)(a)5, Florida Statutes, that each political subdivision has the power and authority:

"To request state assistance or invoke emergency-related mutual-aid assistance by declaring a

state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally shall be limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision shall have the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community. . . ."

Section 252.34(8), Florida Statutes, defines "[p]olitical subdivision" to mean "any county or municipality created pursuant to law." As this office recognized in Attorney General Opinion 83-59 (a copy of which is enclosed), while section 252.38(3)(a)5. (then section 252.38[6][e], Florida Statutes 1983), authorizes a county to declare a local state of emergency, it does not expressly state that such governmental entities may exercise the powers of the Governor as prescribed in section 252.36, Florida Statutes. While such emergency powers may be delegated by the Governor to a political subdivision, such delegation must be expressly set forth in an executive order or proclamation.

I am enclosing a copy of Attorney General Opinion 95-24 in which this office considered the authority of a board of county commissioners, acting through the director of the county emergency management agency, as authorized by Chapter 252, Florida Statutes, and Executive Order No. 80-29, Office of the Governor, to order the evacuation of persons from areas of the county threatened by an imminent natural or manmade disaster in the absence of a directive from the Governor.

I trust that the above informal advisory comments and enclosed material may be of some assistance to you. You may wish to discuss this matter further with your county attorney.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

Enclosures