

Application of F.S.112.0801 before effective date

Number: AGO 83-65

Date: January 06, 1998

Subject:
Application of F.S.112.0801 before effective date

The Honorable Ralph D. Turlington
Commissioner of Education
Department of Education
The Capitol
Tallahassee, Florida 32301

RE: SCHOOL BOARDS--Group insurance for employees

Dear Commissioner Turlington:

This is in response to your request for an opinion on substantially the following question:

Does s. 112.0801, F.S., as amended by Ch. 83-294, Laws of Florida, apply to employees or personnel of district school boards who retire before the effective date which is October 1, 1983?

Chapter 83-294, Laws of Florida (which was SB 1029), is "[a]n act relating to participation in group insurance programs for *retired* public officers and employees . . . requiring local governments which provide certain types of group insurance coverage to their officers and employees to also provide such coverage to *retired* officers and employees . . ." (e.s.) The section title or heading which was furnished by the Legislature is "[g]roup insurance; participation by *retired* employees." (e.s.) See s. 5 of Ch. 81-103 and s. 1 of Ch. 83-294, Laws of Florida. See also AGO 57-314 (where heading or title of section is furnished by the Legislature, consideration of the heading or title is proper in determining intent of the Legislature); *Parker v. State*, 406 So.2d 1089 (Fla. 1981) (one indication of the Legislature's intent is the title of the law enacting the statute); *State v. Webb*, 398 So.2d 820 (Fla. 1981) (to determine legislative intent, court must consider the act as a whole, the evil to be corrected, the language of the act, *including its title*, the history of its enactment, and the state of the law already in existence bearing on the subject). The language in the body of the statute is consistent with the expressed intent of the title of the act and the section heading or title furnished by the Legislature and a reading of s. 112.0801, F.S. 1983, does not make evident any contrary intent.

Prior to its amendment in 1983, the pertinent part of s. 112.0801, F.S., provided that:

"Any county, municipality, community college, or district school board which provides for its officers and employees and their dependents life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance, upon a group insurance plan or self-insurance plan is authorized to allow *retired former personnel* and their eligible dependents the option of continuing to participate in such group insurance plan or self-insurance plan. . . ." (e.s.)

Chapter 83-294, Laws of Florida, amended s. 112.0801, F.S., so as to provide that the designated local governments "shall allow retired former personnel and their eligible dependents the option of continuing to participate in such group insurance plan or self-insurance plan." Other than substituting the word "shall" for the words "is authorized to," the content of s. 112.0801, F.S. 1983, is identical to the wording of the section prior to its amendment. The key words in the title of both Ch. 81-103 and Ch. 83-294, *supra*, and in the enacting provisions contained in s. 5 of Ch. 81-103 and s. 1 of Ch. 83-294, *supra*, are "retired" and "former." Both words are used as adjectives and describe or modify the nouns "employees" or "personnel" in the title of either statute or in the section heading or title of either act and in the enacting provisions of s. 5 of Ch. 81-103 and s. 1 of Ch. 83-294. Neither s. 112.0801, F.S. 1981, nor s. 112.0801, F.S. 1983, defines "former" or "retired" for purposes of the section. *Cf.* s. 110.123(2)(f), F.S., defining "retired state officer or employee" or "retiree" for purposes of the State Group Insurance Program Law; and s. 110.123(3)(c), F.S., which states, *inter alia*, that retired state officers and employees may elect *at the time of their retirement* to continue their coverage under the state group insurance program. Used as an adjective "retired" means: "withdrawn from or no longer occupied with one's business or profession: a retired banker; due or given a retired person: retired pay; . . ." The Random House Dictionary of the English Language 1224 (Unabridged ed. 1967); and "former" is defined to mean: "preceding in time; prior or earlier: during a former stage in the proceedings; past, long past, or ancient: in former times; . . . having once, or previously, been; erstwhile: a former president." *Id.* at 557.

The intent of a statute ascertained from the language thereof is the law. See, *e.g.*, *State v. Knight*, 124 So. 461 (Fla. 1929); *State v. Williams*, 343 So.2d 35 (Fla. 1977). When a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense. See, *e.g.*, *Tatzel v. State*, 356 So.2d 787 (Fla. 1978); *State v. Stewart*, 374 So.2d 1381 (Fla. 1979); see also *Van Pelt v. Hilliard*, 78 So. 693 (Fla. 1918); *State v. Egan*, 287 So.2d 1 (Fla. 1973). Applying these rules of construction to the words "retired former personnel" as used in and for the purposes of s. 112.0801, F.S. 1983, and in light of the dictionary definitions of "retired" and "former" set forth above, I am compelled to conclude that the manifest intent of s. 112.0801, F.S., as amended by s. 1 of Ch. 83-294, Laws of Florida, is to extend the benefits provided thereby to former employees or personnel of a district school board who have retired from their employment with the school district before the effective date of Ch. 83-294, Laws of Florida (s. 112.0801, F.S. 1983), which is October 1, 1983.

In sum, then, it is my opinion that the benefits provided in and the provisions of s. 112.0801, F.S., as amended by Ch. 83-294, Laws of Florida, relating to participation in group insurance programs of district school boards by retired employees thereof at their option applies to former personnel of a school district who have retired from their employment with the school district before the effective date of Ch. 83-294, Laws of Florida (s. 112.0801, F.S. 1983).

Sincerely,

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