Municipal campaign contribution ordinances

Number: AGO 74-263

Date: November 05, 1998

Subject:
Municipal campaign contribution ordinances

ELECTIONS--MUNICIPAL CAMPAIGN CONTRIBUTION ORDINANCES PREEMPTED BY STATE LAW

To: J. T. Frankenberger, City Attorney, Vero Beach

Prepared by: Michael Parrish, Assistant Attorney General

QUESTION:

Does Ch. 73-128, Laws of Florida, preempt the field of campaign contributions so as to render ineffective a municipal ordinance which limits contributions to municipal candidates to an amount less than that provided by s. 8(1)(a) of Ch. 73-128, and limits to five hundred dollars the amount which a municipal candidate may contribute to his own campaign?

SUMMARY:

Chapter 73-128, Laws of Florida (Ch. 106, F. S.), applies to candidates for elective municipal office and preempts the regulation of campaign contributions to the state.

Your question is answered in the affirmative.

Chapter 73-128, Laws of Florida (codified as Ch. 106, F. S.), like s. 99.161, F. S. 1971, which it repealed and replaced, provides for comprehensive regulation of the field of campaign financing. The definition of the term "public office" in s. 1(9) of Ch. 73-128 [s. 106.011(9)] includes any "municipal . . . office or position that is filled by the voters." Thus it is clear that Ch. 73-128 is applicable to candidates for elective municipal office and, as I observed in AGO 071-330 with respect to former s. 99.161, "[t]he conclusion is inescapable that the legislature . . . did in fact preempt the field" with respect to the area of campaign contributions in connection with municipal elections.

And, under s. 166.021(3)(c), F. S., a municipality is without power to enact legislation on "[a]ny subject expressly preempted to state . . . government by . . . general law."

Under s. 8(1)(a) of Ch. 73-128, *supra* [s. 106.08(1)(a), F. S.], a contribution of up to one thousand dollars may be made "to a candidate in any election voted upon on less than a countywide basis," which, of course, includes candidates for municipal office. The last paragraph of s. 8(1) of Ch. 73-128, *supra* [s. 106.08(1)], provides, inter alia, that the contribution limits established by that section shall not apply "to amounts contributed by a candidate to his own

campaign." These provisions must prevail over any municipal ordinance to the contrary because, as noted above, Ch. 73-128 preempts the regulation of campaign contributions and contains no exception respecting the establishment of different provisions by municipalities.