Changes in salaries and county population

Number: AGO 74-184

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Subject:
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COUNTY OFFICIALS--SALARIES--EFFECTIVE DATE OF ADJUSTMENTS RESULTING FROM CHANGE IN POPULATION OF COUNTY

To: George C. Carr, Polk County Attorney, Bartow

Prepared by: Gerald L. Knight, Assistant Attorney General

QUESTION:

When do increases or decreases in the salaries of county officials resulting from changes in county population take effect?

SUMMARY:

Under Ch. 145, F. S., increases or decreases in the salaries of county officials resulting from county population changes should take effect at the beginning of the fiscal year (October 1) next after the annual determination and certification by the Department of Administration of the population of the counties in accordance with s. 23.019, F. S.

Chapter 145, F. S. (Ch. 73-173, Laws of Florida), establishes the population brackets or "groups" upon which the "base" salaries for the various county officials are established and provides that, in addition to the base salary therein prescribed, "compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the grouping times the group rate." The population upon which such salary increments are based is "the population according to the latest annual determination of population of local governments produced by the department of administration in accordance with s. 23.019." Section 145.021(1).

A fiscal year of October 1 to September 30 has been established for all county officials, whether fee or budget officers. Sections 218.33(1), 218.35(3), and 129.04, F. S. *Accord*: Attorney General Opinion 073-330A. This fact supported in part the conclusion reached in AGO 073-330A that "the Legislature intended the salary increases or decreases of fee officers, as well as budget officers, to take effect on October 1, 1973." To be consistent with that conclusion, it must be ruled that increases or decreases in the salaries of county officials resulting from county population changes take effect at the beginning of the next fiscal year, October 1, and not as of the date upon which the population increase is certified by the Department of Administration.

This ruling is in accord with the report on the county officials' salary act (Ch. 73-173, Laws of

Florida) prepared by the staff of the Senate Ways and Means Committee and the House Committee on Finance and Taxation. It is stated therein that the population of each county "for purposes of computing salaries of officials *for each October - September fiscal year will be determined and published by Department of Administration*." (Emphasis supplied.)

Because of the impossibility of assembling the data necessary to reflect population changes as of July 1 in any given year prior to October 1 of that year, there will necessarily be a time lag before the population increase can be reflected in a salary increase. However, I am advised that legislative committee members and staff were aware of this time lag and increased the base salary of county officials to compensate therefor. In any event, there is nothing in the statute to indicate that the legislature intended the population-based salary increase or decrease to be retroactive to the beginning of the fiscal year preceding the certification of the population of the county by the Department of Administration; and orderly budgeting and appropriation procedures would seem to require that the salary increases should take effect at the beginning of the fiscal year next after the certification of the population increase. I have the view, therefore, that increases or decreases in the salaries of county officials resulting from county population changes should take effect at the beginning of the fiscal year next after the certification by the Department of Administration of the population of the county.