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Board of County Commissioners
Columbia County

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September 25, 2003

Mr. Dale Williams
County Manager
County Administrative Offices
Post Office Box 1529
Lake City, Florida 32056-1529

INFORMATION COPY
FEAGLE & FEAGLE ATTORNEYS, P.A.

Re: Employee Bonus Plan

Dear Dale:

You have requested a legal opinion on the issue of whether the County may pay bonuses to County employees.

Initially, Florida Statute 215.425 provides no extra compensation shall be made to any officer, agent, employee or contractor after the service has been rendered or the contract made. However, the provisions of this Section do not apply to extra compensation given to certain employees, including County employees pursuant to policies adopted by county ordinances. . . . Further, Florida Statute 125.01(1)(bb) provides that notwithstanding the prohibition against extra compensation set forth in Florida Statute 215.425, the governing body of the county shall have the power to provide for an extra compensation program, including a lump sum bonus payment program, to reward outstanding employees whose performance exceeds standards if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.

This issue has been addressed in a number of Attorney General opinions. In AGO 2000-48 the Attorney General gave the opinion that the payment of bonuses to existing employees of a municipality for services they have already performed and have been compensated for would violate Section 215.425, Florida Statutes, unless there is a pre-existing employment contract making such bonuses a part of their salary or the City Council has adopted a lump sum bonus payment program to reward outstanding employees whose performance exceeds standards, provided the bonus payment is not included in the employee's regular base rate of pay or carried forward in subsequent years. Extra compensation generally refers to an additional payment for services performed or compensation over and above that fixed by contract or by law when the services are rendered. The purpose of the provision is that public funds may be used only for a public purpose. Therefore, the payment of retroactive compensation, lump sum allowances or other forms of compensation not provided by law or contract is generally prohibited by Florida

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Statute 215.425. As stated in AGO 2000-48, in 1992 the legislature amended Section 215.425, Florida Statutes, to authorize both counties and municipalities to adopt compensation programs to reward outstanding employees. In the same year the legislature amended Florida Statute 125.01(1) to allow counties to provide an extra compensation program, including a lump sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.

In summary, Florida Statute 215.425 and 125.01(1)(bb) provide the county legislative body (Board of County Commissioners) may provide for an extra compensation program, including a lump sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in employee's regular base rate of pay and may not be carried forward in subsequent years. As indicated in Florida Statute 215.425, the program must be implemented pursuant to policies adopted by county ordinance.

If you have any additional questions regarding this issue, please do not hesitate to give me a call.

Very truly yours,


Marlin M. Feagle

MMF:dse

COLUMBIA COUNTY, FLORIDA
ORDINANCE NO. 2003-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, TO BE KNOWN AS "THE COLUMBIA COUNTY LUMP SUM BONUS PAYMENT PROGRAM;" DEFINING LEGISLATIVE FINDINGS; STATING THE PROVISIONS OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Columbia County, Florida, (the "Board"), wishes to provide for an extra compensation program, including a lump sum bonus program, to reward outstanding employees whose performance exceeds standards for their positions; and

WHEREAS, the Board believes establishment and implementation of a lump sum bonus payment program for county employees serves the public interest and represents a progressive innovation in personnel management and incentives; provided the payment is not compensation for past performance and for which the employee has already been compensated, and such bonus payment is not included in an employee's base rate of pay and is not carried forward in subsequent years.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA that:

SECTION 1: TITLE. This Ordinance shall be known as "The Columbia County Lump Sum Bonus Payment Program."

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SECTION 2: INTENT. It is the intent of this Ordinance to provide a lump sum employee bonus payment program to provide employee work incentives for future rather than past performance which exceeds the standards of the employee's position and which serves the interest of the public.

SECTION 3: COMPENSATION. Lump sum bonus payment compensation may be made in any calendar year beginning 2003 based upon recommendation made by the County Manager and approval by the Board. The County Manager must recommend the utilization of the program during the annual budget preparation process, including the classes of county employees affected and range of lump sum bonus payments to the included employees.

SECTION 4: CRITERIA FOR BONUS PAYMENT. The following criteria for approval and bonus payment shall be as follows:

- A. The bonus payments awarded shall not be included in the employee's base rate of pay and may not be carried forward in subsequent years.
- B. Bonus payments may only be recommended for and awarded to employees whose performance exceeds standards based upon their most recent employee evaluations.
- C. Bonus payments may not be awarded to employees who have not completed the applicable probationary period of service to the county at the date of bonus determination.

D. Funding for equivalent bonus payments to employees of the Clerk of Circuit Court, Property Appraiser, Sheriff's office, and Supervisor of Elections may be made to those officers in lump sum amounts. However, in compliance with this policy, these funds will not constitute recurring funds for the purpose of computing budgetary allocations in ensuing years.

E. The lump sum bonus program payments shall not supplement or modify the terms of any salary contracts maintained by the Board with its employees.

F. No payment shall be made for services already performed and for which the employee has been compensated, unless there is a pre-existing contract making bonus payment part of the salary of that employee. The payment shall not be compensation for past performance.

SECTION 5: SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provisions, and such holding shall not effect the validity of the remaining portions of this Ordinance.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective immediately upon receipt by the Clerk of the Board of notice that it has been filed with the Department of State.

**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF COLUMBIA COUNTY, FLORIDA, this _____ day of _____, 2003.**

**BOARD OF COUNTY COMMISSIONERS
COLUMBIA COUNTY, FLORIDA**

By: _____
Chairman

ATTEST: _____
P. DeWitt Cason, Clerk of Court

(SEAL)