

**DE 80-07 - May 14, 1980**

**Application To District Offices  
Section 99.012(1), F.S.**

*To: Honorable Neva Flynn, Supervisor of Elections, Bradford County, P. O. Box 269, Starke, Florida 32091*

*Prepared by: Division of Elections*

This is in response to your request for an opinion on substantially the following question: May a person who is the Supervisor of the Bradford County Soil and Water Conservation District, who is seeking reelection to that office, also seek election to the Bradford County District School Board?

I am of the opinion this individual may not seek election to both offices. Section 99.012(1), F.S., states:

"No individual may qualify as a candidate for public office whose name appears on the same or another ballot for another office, whether federal, state, county or municipal, the term of which or part thereof runs concurrently with the office for which he seeks to qualify. This, however, does not apply to political party offices."

Since the term of office for Supervisor of the Bradford County Soil and Water Conservation Board and the term of office for a Bradford County District School Board member overlap, (Section 582.18 (1), F.S., and Section 230.05, F.S.), the only question concerning Section 99.012(1), Florida Statutes preventing this individual from running for both offices is whether Section 99.012(1), F.S., extends to district offices. Note, the offices in question are both district offices and that Section 99.012(1), F.S., does not specifically mention district offices. Section 99.012(1), F.S., states, in part, that:

"No individual may qualify as a candidate for public office whose name appears on the same or another ballot for another office, whether federal, state, county or municipal..." (Emphasis added)

Thus, it could be argued that doctrine of ejusdem generis would prevent the extension of Section 99.012(1), F.S., to district offices. (The doctrine of ejusdem generis means that where general and specific words which are capable of analogous meaning are associated together, taking color from each other, the general words are restricted to a sense analogous to the less general. Florida Jurisprudence, Words and Phrase.)

This argument was rejected by the District Court of Appeal of Florida, Second District, in Ballard v. Cowart, 238 So. 2d 484 (1970). In that case, a duly appointed member of the Hospital District Board of Hardee County, whose term of office had not expired and who had not tendered resignation from that office, sought to become a member of the Hardee County Commission. The question was whether Section 99.012(2), F.S., extended to district offices. That section states, in part, that:

"No individual may qualify as a candidate for public office who holds another elective or appointive office, whether state, county, or municipal, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify without resigning from such office not less than 10 days prior to the first day of qualifying for the office he intends to seek." (Emphasis added)

The appellant in Ballard v. Cowart argued the doctrine of ejusdem generis prevented the application of Section 99.012(2), F.S., to district offices. In adopting the reasoning of the lower court, the court stated "The term 'elective or appointive office' exhausts the enumeration of the series, and the following term, *viz.*, 'whether state, county or municipal' does not in any way limit the exhaustive term, so that the doctrine of ejusdem generis has no application." Ballard v. Cowart, 238 So. 2d at 485. While the court was not construing Section 99.012(1), F.S., but rather Section 99.012(2), F.S., the construction of the latter is applicable to the former because of the similarity of the language in the two sections.

In reaching this result, I am aware of AGO 071-328 in which the Attorney General ruled that Section 99.012(2), F.S., did not require a member of a special taxing district to resign-to-run for a state, county or municipal office. That ruling, however, was based upon prior series of Attorney General Opinions which held that Article II Section 5 of the Florida Constitution, the "dual office holding" prohibition, did not reach district offices. Article II, Section 5, Florida Constitution reads differently than Section 99.012(1), Florida Statutes. I feel compelled to follow the reasoning of Ballard v. Cowart. Accordingly, your question must be answered in the negative.