

RESCINDED

DE 84-15 - May 31, 1984

APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF DEPOSITORY

s. 106.021 and
RESIGN TO RUN LAW
s. 99.012(7)

To: Mr. A. Cliff Batten, 10151 Weatherly Road, Brooksville, Florida 33512

Prepared by: Division of Elections

This is in response to your recent letter in which you posed the following questions:

“Can a deputy sheriff prefile and start campaigning before qualifying time without violating the election laws?

What is your interpretation of campaigning?

Does the sheriff of a county have the option to allow a deputy sheriff to seek the office of the sheriff and continue working without taking a leave of absence if he, the sheriff, is not seeking reelection and if not, when would the deputy have to take a leave of absence?

If the incumbent sheriff has not announced if he will seek reelection, can the deputy sheriff who is seeking that office actively campaign while still employed if the incumbent sheriff does not object?”

Section 106.021(1)(a), F.S., provides that any person who seeks to qualify for nomination or election to an office must appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office. It further provides that no person may accept any contribution or make any expenditure in the campaign unless that person has appointed a treasurer and designated a campaign depository. You may, therefore, begin accepting contributions and making expenditures in your campaign prior to the time you are required to qualify as long as you have appointed your treasurer and designated your primary campaign depository pursuant to s. 106.021, F.S.

The Florida Election Code does not define the term “campaigning.” Therefore, we cannot answer your second question, except to say, as stated above, that you may make expenditures and receive contributions as long as you have fulfilled the requirements of s. 106.021, F.S.

There is no prohibition in the election laws against your making expenditures and receiving contributions before you qualify while you hold your position of deputy sheriff. If the incumbent sheriff does not object, or if there are no applicable local regulations,

you may receive contributions and make expenditures before you qualify and still hold your office as deputy sheriff. However, you must note that s. 99.012(7), F.S., requires a deputy sheriff to resign to run for the office of sheriff if the incumbent is running for reelection and if the incumbent has qualified as a candidate for reelection. If the incumbent is not seeking reelection, the deputy sheriff must take a leave of absence from employment without pay no later than the date the deputy sheriff qualifies for election. See Division of Elections Opinions 80-8, 80-10 and 80-11.

SUMMARY

A deputy sheriff may receive contributions and make expenditures before he qualifies for election as sheriff as long as he has appointed a campaign treasurer and designated a primary campaign depository. Once the deputy sheriff qualifies, however, he must take a leave of absence without pay if the sheriff is not seeking reelection. This leave of absence must begin no later than the date when the deputy sheriff qualifies as a candidate.