

DE 87-14 - October 23, 1987

**Special District Elections
Sections 100.342; 100.351; 101.20(2) F.S.**

To: Ms. Lynne Hankins-Fielder, Attorney at Law, 121 North Osceola Avenue, Suite 201, Clearwater, Florida 33515

Prepared by: Division of Elections

This is in response to your letter requesting an advisory opinion relating to special district ordinances. Specifically, you asked the following questions:

1. Are there universal procedural requirements for the passage of ordinances by special districts?
2. Are there filing, recording, or publication requirements for passing ordinances in special districts?
3. Do special district ordinances have to be signed and dated?
4. Are special district ordinances effective upon passage, or are there notice requirements?

The Division of Elections has authority to issue opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes. Therefore, this opinion will be limited to provisions in the Florida Election Code relating to special district elections. Since you represent the Palm Harbor Fire Control District and the fire control district has election related duties such as submitting land use classification or assessment rate questions to the electorate, we are authorized under Section 106.23 (2), Florida Statutes, to issue this opinion.

As to your first question:

There are no universal procedural requirements mandated by the Florida Election Code for the passage of ordinances in special districts. There are several hundred special districts in the state and most have unique requirements either under special acts of the Legislature or by county or municipal ordinances for elections of governing boards and passage of ordinances.

As to your second question:

The Florida Election Code contains three filing, recording and publication requirements that are applicable to special district elections that may apply to the passage of ordinances:

Section 100.342, Florida Statutes, provides that "In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a

newspaper of general circulation in the county, district, or municipality, as the case may be." Therefore, you must first look to the enabling legislation which created the Palm Harbor Fire Control District and any subsequent changes or additions to that legislation to determine if that legislation contains filing, recording or publication requirements. If not, the requirements of Section 100.342, Florida Statutes, would be followed.

Sections 100.351 and 101.20(2), Florida Statutes, do not specifically refer to special elections, but the provisions therein do apply to special districts.

Section 100.351, Florida Statutes, provides that "Whenever an election is held under a referendum provision of an act of the Legislature, the election officials of the governmental unit in which the election is held shall certify the results thereof to the Department of State...." This portion, therefore, applies to special districts whenever the Legislature authorizes a special district referendum.

Section 101.20(2), Florida Statutes, provides that when a supervisor of elections compiles the list of qualified candidates, a sample ballot must be published by the supervisor in a newspaper of general circulation in the county prior to the day of election. If there are any special district items on the ballot, they would be published as part of the ballot.

As to your third question:

Under Section 100.351, Florida Statutes, election officials of the governmental unit in which the election is held must certify the results of the election to the Department of State when an election is held under a referendum provision of an act of the Legislature. The Florida Election Code does not provide for certification to the Department when the referendum is by ordinance of a county or municipality. Certification is not defined in the election code but according to Black's Legal Dictionary certification by a public official consists of a statement written and signed, not necessarily sworn to, which makes evidence of the truth of the facts stated. Black's Law Dictionary 305 (rev. 5th ed. 1979). Therefore, a certification must be signed but there is no requirement in the election code that it be dated.

As to your fourth question:

There are no general requirements in the election code as to when an ordinance is effective.