

DE 88-13 - April 22, 1988

Election Costs

Sections 100.011(3), (4); 100.102; 100.201; 100.241(4); 100.261; 200.001(8)(C); and Chapter 582, F.S.

To: Mr. James H. Siesky, Siesky and Lehman, P.A., Attorneys at Law, 791 Tenth Street South, Suite B, Naples, Florida 33940-6725

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on election costs, Section 100.011(4), Florida Statutes. You are counsel for Mary Morgan, Supervisor of Elections for Collier County, and the Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes.

You asked the following question:

Is the Collier Soil and Water Conservation District responsible for its proportionate share of general election costs?

The Collier Soil and Water Conservation District was created in 1984 pursuant to Chapter 582, Florida Statutes. Chapter 582, Florida Statutes, places the duty for calling and paying for referenda relating to the creation of such districts with the Department of Agriculture and Consumer Services but is silent regarding the payment of expenses relating to subsequent elections.

The Florida Election Code is replete with directives that those entities requiring elections must pay for such elections: Section 100.011(3), Florida Statutes, provides that the expenses of holding county and state elections are paid out of the treasury of the county or state; Section 100.241(4), Florida Statutes, provides that the expenses of holding county and state elections are paid out of the treasury of the county or state; Section 100.241(4), Florida Statutes, provides that the cost of holding a freeholder's election or referendum is paid by the county, district or municipality requiring the election; Sections 100.201 and 100.261, Florida Statutes, were amended by the 1987 Legislature to provide that election costs of a bond referendum will be paid in whole, or proportionately, by the county, district or municipality requiring such referendum; and, Section 100.102, Florida Statutes, provides that expenses incurred by a county for certain special elections or special primary elections are reimbursed by the state.

Chapter 87-363, Laws of Florida, amended Section 100.011, Florida Statutes, and reads in part:

...the expenses of holding a special district or community development district election, or the district's proportionate share of regular election costs, as the case may be, shall be paid out of the district's treasury and in the same manner as in general elections. This subsection applies to

any district, whether created by or pursuant to special or general law....

You have been notified by the Florida Department of Agriculture and Consumer Services that the department's interpretation of Section 100.011(4), Florida Statutes, is that it applies only to freeholder elections under Section 100.241(4), Florida Statutes, or to special districts which are municipal service taxing and benefit units.

In a letter to you the Department of Agriculture and Consumer Services points out that Section 200.001(8)(c), Florida Statutes, defines special district as:

"Special district" means a local unit of special government, except a school board, created pursuant to general or special law for the purpose of performing prescribed specialized functions within limited boundaries and includes municipal service taxing or benefit units. (Emphasis added.)

The department argues that the definition explicitly includes "municipal service taxing or benefit units" which have to do with district imposed monetary charges against property owners. Chapter 582, Florida Statutes, relating to "Soil and Water Conservation" is the statutory authorization for soil and water conservation districts and nothing in that chapter authorizes such districts to impose taxes or fees. Therefore, the department argues that Chapter 582 Soil and Water Conservation Districts are not "special districts" within the definition of Section 100.011(4)(a), Florida Statutes.

However, the plain meaning of the definition of special districts in Section 200.001(8)(c), Florida Statutes, is that a special district is a local unit of special government created pursuant to general or special law for the purposes of performing prescribed specialized functions within limited boundaries. This definition provides that it also includes municipal service taxing or benefit units, but it does not limit such special districts to municipal service taxing or benefit units. Therefore, from a literal reading of the definition of special district, a soil and water conservation district created pursuant to Chapter 582, Florida Statutes, is a special district within the meaning of Section 100.011(4)(a), Florida Statutes, and is to share in the proportionate cost of regular elections.

SUMMARY

A soil and water conservation district created pursuant to Chapter 582, Florida Statutes, is a special district within the meaning of Section 100.011(4)(a), Florida Statutes, and must share in the proportionate costs of regular elections.