DE 90-45 - November 5, 1990

Municipal Recall
Section 97.021(8), 97.0631, and 101.62(4)(A), F.S.

To: Honorable Dorothy Walker Ruggles, Supervisor of Elections, Pinellas County, 315 Court Street, Clearwater, Florida 34616-5190

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on municipal elections. You are the Pinellas County Supervisor of Elections, 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 ask substantially the following questions:

> 1) Are municipalities required to notify overseas electors of an election 90 days prior to the general election and, when possible, for special election?

> 2) Are municipalities required to send absentee ballots to overseas voters not fewer than 45 days before the general election as provided in Section 101.62, Florida Statutes?

> 3) How many days prior to the election are municipalities required to mail absentee ballots?

> 4) Does a city charter take precedence over state requirement for time between first election and a run-off election?

As used in Chapters 97 through 105, Florida Statutes, the word "election" means any primary election, special primary election, special election, general election or presidential preference primary election. Section 97.021(8), Fla. Stat. Municipal election is not included in the definition. As such, for any provision in Chapter 97 through 105, Florida Statutes, to apply to municipal elections, such provision must state that it is applicable to municipalities or a municipality must have specifically adopted the provision by charter or ordinance.

In reference to your first and second questions concerning notice of elections and advance absentee ballots to overseas electors, Section 97.0631, Florida Statutes, provides, in part, that the supervisor shall notify overseas electors at least 90 days prior to regular primary and general elections and, when possible, prior to any special election so that the overseas elector may follow the procedures for absentee voting provided by law. Section 101.62(4)(a), Florida Statutes, provides that the supervisor must mail an advance absentee ballot to overseas electors not fewer than 35 days before the first primary and 45 days before the second primary and general election. These sections refer to "primary," "general" and "special elections" and, therefore, are not applicable to a municipal election.

In reference to your third question, there are no requirements in the election code as to how many days prior to a municipal election absentee ballots must be mailed. General guidelines for the supervisor of elections are noted in Section 101.62(4)(b), Florida Statutes, which provides that as soon as the absentee ballots are printed, the supervisor of election must deliver a ballot to those electors who have requested an absentee ballot.

In reference to your fourth question, a city charter does not take precedence over the state requirement for the time between a first election and a run-off election. The state requirement is not applicable to the municipal election.

SUMMARY

The notice of elections and advance absentee ballots to overseas electors as required by Section 97.0631 and 101.62(4)(a), Florida Statutes, do not refer specifically to municipal elections and, therefore, are not applicable to municipal elections.

There are no requirements in the election code as to how many days prior to a municipal election absentee ballots must be mailed. General guidelines for the supervisor of elections are noted in Section 101.62(4)(b), Florida Statutes, which provides that as soon as the absentee ballots are printed, the supervisor of elections must deliver a ballot to those electors who have requested an absentee ballot.

A city charter does not take precedence over the state requirement for the time between a first election and a run-off election. The state requirement is not applicable to the municipal election.