

DE 92-18 - August 24, 1992

**Nomination of Presidential Electors for Candidates for Federal Office
Section 103.021(1),(3), F.S.**

TO: Mr. Lawrence P. Stevenson, Holland and Knight, Post Office Drawer 810, Tallahassee, Florida 32302

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion relating to the H. Ross Perot Petition Campaign. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons, including persons or organizations engaged in political activity. You represent the H. Ross Perot Petition Campaign. Therefore, pursuant to Section 106.023(2), Florida Statutes, the division has authority to issue this opinion to you.

You have asked whether Section 103.021, Florida Statutes, requires that presidential electors supporting an independent candidate must be registered as "independent voters" or may they be registered with a particular political party. You also ask whether a person who is now registered as a member of a political party may change his registration to independent and qualify as a presidential elector, prior to September 1, 1992, pursuant to Section 103.021(1), Florida Statutes.

For the reasons which follow, Section 103.021(1), Florida Statutes, does not require that a presidential elector for an independent presidential candidate be registered as an independent. Therefore, persons registered as Democrats or Republicans or as members of a minor political party, or registered without political party affiliation, may serve as electors for an independent candidate. Having reached this conclusion, there is no need to answer your second question.

First, we must carefully construe laws on citizen participation in the voting process or risk the unnecessary muting of the public voice, especially when that public voice might be muted for the sake of rigid adherence to what is arguably an ambiguous statute. Boardman v. Esteva, 3 23 So.2d 259 (Fla. 1975).

Second, the Florida Election Code does not recognize the term "registered independent." See, Section 97.021, Florida Statutes. Although Chapter 99, Florida Statutes, contains provisions which allow persons to run as independent candidates, the term "registered independent" is somewhat of a misnomer. Persons are registered as members of the Republican or Democratic parties, minor political parties, or with no political party affiliation. Those registered with no political party affiliation are frequently referred to as "registered independents."

For example, in Section 99.0955, Florida Statutes, any registered elector can have his name placed on the ballot as an independent (emphasis added). It matters not that they may be a member of a political

party. In order to gain ballot access, the independent candidate must obtain the required number of petitions. The petitions, in turn, can be signed by any registered elector, regardless of party affiliation. In Mr. Perot's case, thousands of signatures were turned in and subsequently verified to allow such ballot access without regard to the party affiliation of the persons signing the petition, or the party affiliation of the candidate himself. To now hold that Mr. Perot can only have presidential electors who are registered with no political party affiliation would, in our view, be unreasonable and unnecessarily burdensome. See e.g., Anderson v. Firestone, 499_F.Supp. 1027 (N.D. Fla. 1980); McCarthy v. Askew, 420_F.Supp. 775 (S.D. Fla. 1976), affirmed 540 F.2d 1254. Supra, Boardman.

Moreover, we do not believe this is required by Section 103.021(1), Florida Statutes. As we noted in DE 92-08 (June 16, 1992), an independent candidate's electors are chosen in the same manner as party candidate electors. The relevant portion of Section 103.021(1), Florida Statutes, states:

The Governor shall nominate the presidential electors of each political party. He shall nominate only the electors recommended by the state executive committee of the respective political party. Each such elector shall be a qualified elector of the party he represents who has taken an oath that he will vote for the candidates of the party that he is nominated to represent. (Emphasis added.)

Words or phrases in a statute are construed to be relative to and qualify the words or phrases immediately preceding. 82 C.J.S. Statutes, Section 334, as quoted at page 105, of the Florida Senate Bill Drafting Manual. Thus, the phrase "such electors" in the third sentence of the above-quoted passage refers to the electors of the respective political parties mentioned in the second sentence. Thus, an elector for a Democratic candidate must also be a qualified elector who is registered as a Democrat because he is representing that party's candidate, and swears to an oath that he will vote for that party's candidate.

On the other hand, a person serving as an elector for an independent candidate is nominated to represent no political party. Instead, he represents the independent candidate and swears to an oath that he will vote for that candidate.

SUMMARY

An independent candidate for president may nominate, as his presidential electors, any registered elector of Florida, regardless of such elector's party affiliation.