

One or more statutes addressed in this opinion has changed. Please consult current Florida law.

DE 00-10 - November 13, 2000

**Deadline for Certification on County Results
§§ 102.111 and 102.112, Fla. Stat.**

To: The Honorable Charles E. Burton, Chairperson, Palm Beach County Canvassing Board, West Palm Beach, Florida

Prepared by: Division of Elections

Dear Judge Burton:

This is in response to your request for an opinion relating to sections 102.111 and 102.112, Florida Statutes. You are chairperson of the Palm Beach County Canvassing Boards and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue an opinion to you.

You state that the Palm Beach County Canvassing Board voted to have a manual recount of all ballots cast in the presidential election. Further, you state that the manual recount will not be completed by 5:00 p.m. of the seventh day following the election as provided in sections 102.11 and 102.112, Florida Statutes. Essentially you ask:

1. What effect will the provisions of section 102.111, Florida Statutes, when read in conjunction with section 102.112, Florida Statutes, have on the votes cast in the presidential election by the citizens of Palm Beach County?
2. May the board certify all other election results to the Department of State while the manual recount continues for the Presidential election?

In response to your first question, if the Palm Beach County Canvassing Board fails to certify the county returns to the Elections Canvassing Commission by 5:00 p.m. of the seventh day following the election, the votes cast in Palm Beach County will not be counted in the certification of the statewide results.

Section 102.111, Florida Statutes, is explicitly mandatory. It provides, "[i]f the county returns are not received by the Department of State by 5 p.m. on the 7th day following an election, all missing counties shall be ignored, and the results shown by the returns on file shall be certified."

Section 102.112, Florida Statutes, provides in pertinent part that returns must be filed by 5 p.m. on the 7th day following the first primary and general election. Further, if the returns are not received by the department by the time specified, such returns may be ignored and the results on file at the time may be certified by the department. This section contemplates unforeseen circumstances not specifically contemplated by the legislature. Such unforeseen circumstances might include a natural disaster such Hurricane Andrew, where compliance with the law would be impossible. But a close election, regardless of the identity of the candidates, is not such a circumstance. The legislature obviously specifically contemplated close elections in that the law provides for automatic recounts, protests, and

manual recounts. It also plainly states when this process must end.

Therefore, absent such unforeseen circumstances, returns from the county must be received by the Elections Canvassing Commission by 5 p.m. on the seventh day following the election in order to be included in the certification of the statewide results.

The answer to your second question is yes, the county canvassing board may certify other election results to the Department of State while the manual recount continues for the presidential election.

SUMMARY

Absent such unforeseen circumstances such as a natural disaster, returns from the county must be received by the Elections Canvassing Commission by 5 p.m. on the seventh day following the election in order to be included in the certification of the statewide results. The county canvassing board may certify other election results to the Department of State while the manual recount continues for the presidential election.

Sincerely,

L. Clayton Roberts
Director, Division of Elections

Prepared by:
Kristi Reid Bronson
Assistant General Counsel

LCR/KRB