

DE 80-11 - May 16, 1980

**Resign-to-Run Law
Deputy Sheriffs
May 6, 1980**

To: Honorable Charles J. Kaniss, Supervisor of Elections, Pinellas County, 315 Court Street, Clearwater, Florida 33516

Prepared by: Division of Elections

This is in response to your request for a formal opinion from this office pursuant to s. 106.23, F.S.

In your letter, you posed the following question: "Does the law require that deputy sheriffs, commissioned in Pinellas County, resign-to-run for the office of sheriff if the incumbent is not seeking reelection, or must they take a leave of absence without pay on the day they qualify as a candidate for that office?"

Deputy sheriffs who are running for the office of sheriff need not resign-to-run if the incumbent is not running for reelection. However, the deputy sheriff must take a leave of absence from employment without pay during the period in which he is seeking election. This leave of absence must begin no later than when the deputy sheriff qualifies as a candidate.

I must stress that this ruling is restricted to construction of the Resign-to-Run Law. It does not take into consideration Chapter 69-608, Laws of FL. This restricted ruling is necessary because the authority of the DOE to give binding opinions pursuant to s. 106.23, F.S., is limited to provisions or possible violations of the FL election laws, i.e., Chapter 97 through 106, F.S.

Unless and until this matter is further clarified by legislative enactment or judicial opinion, the above reflects the opinion of this office.