

DE 77-32 - December 5, 1977

**Voter Registration Closing Of Books
Section 98.051**

To: Joyce V. Dieffenderfer, Supervisor of Elections, Metropolitan Dade County, P.O. Box 012241, Miami, Florida 33101

Prepared by: Division of Elections

By your letter of November 30, 1977, you have requested an opinion of this office on the following question:

"In light of the new election code going into effect on January 1, 1978, what is the date on which voter registration books are to be closed for elections occurring in early 1978?"

As you correctly noted in your letter, current law states that the registration books close at 5:00 p.m. on the 45th day preceding each state and local election. Section 98.051(4), F.S. (1975). A thirty day closing requirement applied to presidential elections. Ibid. The new election code adopted by the 1977 legislature removed the 45 day closing date and conformed the state and local election registration closing to the thirty day presidential election closing date. Chapter 77-175, Section 5, Laws of Florida, 1977.

However, this new legislation is not effective until January 1, 1978, and you have raised the question as to which closing date is to be observed for elections occurring in early 1978, particularly a municipal election scheduled for January 24th, 1978, in Florida City. There are three factual circumstances which may arise that must be considered. These are:

1. An election to be held after February 14, 1978, (which is 45 days after January 1'st) so that either the 30 or 45 day closing would be in 1978;
2. An election to be held on or prior to February 14, 1978, but on or after January 31'st, 1978 (which is 30 days after January 1'st) the 45 day closing would occur in 1977, but a closing under the new law would occur in 1978; and
3. An election to be held prior to January 31'st, 1978, so that both the 45 and 30 day closing dates occur in 1977.

In considering the first situation, the answer is clear. The new law is in effect and closing of the books under either provision is in 1978. There is no question that the thirty day registration requirement applies to an election occurring more than forty five days after January 1'st, 1978.

The second situation is where the effective date of the new law falls into the fifteen day period between the two closing provisions. To strictly follow the law in effect at a given time would require the books to be closed in December, 1977, on the 45th day preceding the election, and then be

reopened again after the new law becomes effective January 1st, 1978, until the 30 day closing date is reached at which time the books are closed again. The law neither requires nor intends such an absurd strict application. It should be interpreted in a logical and consistent manner which complies with the spirit of the law without imposing an undue burden on the public official or the public. Accordingly, in such an instance as just outlined, the registration books should remain open until 5:00 p.m. of the 30th day preceding the election, and not close when the 45 day closing date is reached.

The third and final possible situation is the one in which Florida City finds itself. Both closing dates would occur in December, 1977, prior to the effective date of the new code. Therefore, it seems most appropriate in such a case to follow the law then in effect and close the books 45 days preceding the election. Such would be a consistent application of the law in a situation which is not analogous to the second situation discussed above. Therefore, the registration books for the municipal election in Florida City to be held January 24th, 1978, should be closed at 5:00 p.m. on the 45th day preceding before the election; which is December 10, 1977.

SUMMARY

Registration books for elections occurring in early 1978 are to be closed at 5:00 p.m.; 1) On the 30th day preceding an election to be held after February 14, 1978; 2) On the 30th day preceding an election to be held on or prior to February 14, 1978, but on or after January 31, 1978; and 3) On the 45th day preceding an election to be held prior to January 30, 1978.