

DE 78-39 - September 12, 1978

**Contribution And Expenditure Reports; Times For Filing By Less Than Statewide Candidates
Unopposed For Nomination
ss. 11.2421,106.07(1), F.S. (1977); ch. 77-175, Laws Of Florida**

*To: Honorable Toni Jennings, State Representative — 42nd District, 1030 Wilfred Drive, Orlando,
Florida 32803*

Prepared by: Division of Elections

By your recent letter, an advisory opinion of this office was requested in answer to substantially the following question:

"When must a candidate to less than a statewide office who is unopposed in the primary, but opposed in the general election, file campaign reports?"

Section 106.07(1), F.S. (1977), prescribes the times for the filing of regular campaign contribution and expenditure reports by campaign treasurers of candidates for office. Initially, reports are to be filed on the first Monday of each calendar quarter from the time the campaign treasurer is appointed.

With respect to candidates (excluding political committees) following the last day of qualifying for office, the reports are to be filed according to the schedule established in paragraphs (a), (b) and (c) of s. 106.07(1), F.S. (1977). Paragraph (b) thereof relates to reports required of candidates seeking nomination or election to a statewide office and is therefore not applicable to your question. However, paragraphs (a) and (c) of s. 106.07(1), F.S., in pertinent parts, read as follows:

"(a) On the Monday preceding the election, for a candidate who is unopposed in seeking nomination (or) election to any office;"

"(c) On the first and third Mondays of each month and the Monday immediately preceding the election, for a candidate who is opposed in seeking nomination or election to less than a statewide office. . ."

Section 106.07 was originally enacted in 1973 (Chapter 73-128, Laws of Florida) and until 1975 campaign treasurers for all candidates seeking nomination or election were required to file reports on Monday of each week preceding the election, beginning on the fortieth day preceding such election, s. 106.07(1), F.S. (1974 Supp.). In 1975, the Legislature by section 1 of Chapter 75-8, Laws of Florida, changed the reporting requirements in s. 106.07(1) beginning on the fortieth day preceding an election. The amendment to the section provided different requirements for unopposed and opposed candidates, as well as differentiating between statewide and less than statewide candidates. Following this enactment paragraph (a) provided for a report "On the Monday preceding the election for the candidate who is unopposed in seeking nomination or election to any office;" and paragraph (c)

provided for reports, "On the first and third Mondays and the Monday preceding the election (1) for the candidate who is opposed in seeking nomination or election to less than a statewide office. . . ." s. 106.07(1), F.S. (1975). This is substantially that language which appears in the 1977 edition of the Florida Statutes.

In 1977 the Legislature by Chapter 77-175, Laws of Florida, attempted to change paragraph (a) of section 106.07(1), F.S. In section 46 of Chapter 77-175, which took effect January 1, 1978, the Legislature clearly struck the word "or" in paragraph (a) of s. 106.07(1) and inserted the conjunctive word "and." This amendment then provided reporting requirements for "a candidate who is unopposed in seeking nomination and election to any office." (e.s.). The apparent intent was to provide a method of reporting for any candidate who had absolutely no opposition whatsoever, with paragraphs (b) and (c) controlling reporting by opposed candidates depending on whether a candidate was statewide or less than statewide.

In examining paragraph (a), s. 106.07(1) in the 1977 Florida Statutes, one immediately recognizes the editor's brackets around the word "or" contained therein, with the explanation following that section stating that it was inserted by the editors. This insertion by the Division of Statutory Revision creates the question which you present. The 1978 "Candidate and Committee Calendar" which has been provided by this division to candidates and committees to show reporting dates was based upon the law as amended by Chapter 77-175, Laws of Florida, and not the 1977 edition of the Florida Statutes. Therefore, the calendar shows reporting dates for less than statewide candidates unopposed for nomination, but opposed for election, reporting pursuant to s. 106.07 (1)(c), F.S., rather than paragraph (a) thereof.

As the language which is contained in the 1977 edition of the Florida Statutes is to be construed as the official statutory law the provisions contained in paragraph (a) of s. 106.07(1), F.S., should be controlling in the instant case. See s. 11.2421, F.S. (1977). Therefore a candidate who is running for less than a statewide office and who has no opposition in the primary but is opposed in the general election is required to file only on the Monday preceding the election.

SUMMARY

Although the Legislature in Chapter 77-175, Laws of Florida, desired that only those candidates unopposed for nomination and election file campaign reports on the Monday preceding the election, a less than statewide candidate who is not opposed for nomination may also only be required to file at that time due to the present language in s. 106.07(1)(a), F.S., as inserted by the editors.