

DE 87-17 - October 19, 1987

**Resign-to-Run Law
Sections 99.012(2) and 99.012(7), F.S.**

To: Ms. Siggi Helmes, Campaign Coordinator, James W. Greer, Candidate, Sheriff, Palm Beach County, 100 East Atlantic Avenue, Suite 401, Delray Beach, Florida 33444

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on the following question:

Whether the Chief of Police of the Town of Gulf Stream must resign or take a leave of absence to run for the office of Sheriff of Palm Beach County in 1988?

The Resign-to-Run Law requires an elected or appointed officer to resign irrevocably when seeking an elected office when the term of the office the person is running for is concurrent with the office he presently holds. S. 99.012(2), Fla. Stat. However, the Resign-to-Run Law has an exemption from the resignation requirement for an officer who is a subordinate personnel, deputy sheriff or police officer unless that person is seeking to qualify for a public office which is currently held by an individual who has the authority to appoint, employ, promote or otherwise supervise the person and who has qualified for reelection to that office. S. 99.012(7), Fla. Stat. However, that person is required by the Resign-to-Run Law to take a leave of absence without pay from employment during the time in which he is seeking election to public office.

The Chief of Police of the Town of Gulf Stream is exempt from the resignation requirement of the Resign-to-Run Law because of the exemption for police officers and due to the fact that the Sheriff of Palm Beach County does not have the authority to appoint, employ, promote or supervise the Chief of Police of the Town of Gulf Stream. See, DE 84-26 (July 10, 1984). However, pursuant to Section 99.012(7), Florida Statutes, he must take a leave of absence without pay from his employment during the period in which he is seeking election to the office of Sheriff of Palm Beach County.

SUMMARY

The Chief of Police of the Town of Gulf Stream need not resign to run for the office of Sheriff of Palm Beach County. However, he must take a leave of absence without pay during the period in which he is seeking election to the office of sheriff.