

The statute addressed in this opinion has changed. Please consult current Florida law.

DE 77-07 - February 25, 1977

**Precinct Boundaries
Chapter 98, F.S.**

To: Michael D. Chiumento, Esquire, Post Office Box 641, Flagler Beach, Florida 32036

Prepared by: Division of Elections

By letter of February 22, 1977, you have asked whether precinct or election district boundaries as defined by Section 98.031(2), F.S., may, between January 1, 1977 and January 1, 1980, be altered without request for waiver (to be granted by the Secretary of State) when such alteration is due to the subdivision of an existing precinct or election district, or is due to municipal annexation, detachment, consolidation or other action. You are concerned to know, in this regard, whether Section 98.031 allows for alteration of county commission districts as defined by Section 124.01, F.S., without the need for obtension of a waiver by the Secretary of State.

Before responding directly to your inquiry, it should be noted that the doctrine of ejusdem generis requires that the term "or other such action" in Section 98.031(2), F.S., be interpreted to refer to municipal action in the nature of "annexation, detachment, consolidation".

Section 98.031(2), F.S., does not prohibit alteration of county commission district lines, and no waiver is required to be obtained from the Secretary of State for such alteration.

However, alteration of precinct or election district lines does require such a waiver unless that alteration is effectuated by subdivision of existing precincts or election boundaries, or by such municipal action as Chapter 98 contemplates.

Where county commission district boundaries and election district boundaries are co-extensive, it would appear that the only way in which the county commission districts might be altered would be to alter the precincts or election districts. On this predicate, there would be required a waiver by the Secretary of State or there would be required such municipal action as contemplated by Chapter 98 or subdivision of a precinct or election district — which election district subdivision would obviously be in violation of Section 124.041, F.S., which restricts such districts to five in number.

You may wish to refer to DE 77-05 (a copy of which is herewith enclosed) delimiting the waiver authority of the Secretary of State.