

DE 78-15 - February 28, 1978

**Special Act In Conflict With Election Code
ch. 26870, LAWS OF FLORIDA (1951);
ch. 31259, LAWS OF FLORIDA (1955);
ch. 77-175, LAWS OF FLORIDA;
s. 104.44, F.S. (1975).**

*To: Honorable David E. McDonald, Supervisor of Elections, Santa Rosa County, Milton, Florida
32570*

Prepared by: Division of Elections

You have requested an opinion of this office in answer to substantially the following question:

Does the Election Code of 1977 (ch. 77-175, Laws of Florida) supersede the provisions of ch. 31259, Laws of Florida (1955), creating a Santa Rosa County Election Commission?

Based on the following analysis, your question is answered in the affirmative.

Chapter 31259 was adopted as a special act by the 1955 legislature. It created a Santa Rosa County Election Commission composed of seven (7) members appointed by the Governor for four (4) year terms. The commission was granted extensive duties and authority relative to the conduct of elections within the county. The supervisor of registration (now supervisor of elections) was designated as ex officio clerk of the commission. All power relating to elections vested in the board of county commissioners, including those conferred by general law, were transferred to the election commission which was to perform all "administrative acts relating to elections." s. 8, ch. 31259, Laws of Florida (1955).

In an attempt to standardize the election laws and procedures within the state, the legislature passed the Election Code of 1951. ch. 26870, Laws of Florida (1951). Section Eight of that act clearly reflects this intent by repealing as of January 1, 1954, all local laws in conflict with the 1951 Code. Id. (codified as s. 104.44, F.S.).

This section repealed those local laws in effect at the time of its enactment. A prospective effective date for the repeal was provided to avoid immediate repeal. Local election laws in conflict therefore remained in effect for three years following enactment of the 1951 Election Code.

This repeal of local laws did not operate as a repeal of all subsequent conflicting local election laws. It did not repeal ch. 31259, which was enacted in 1955 after the adoption of ch. 26870 in 1951 and the effective date of January 1, 1954 for the s. 104.44 repeal.

A 1957 local act indicates the legislative intent that the election commission had not been abolished.

By ch. 57-1821, Laws of Florida, the legislature provided for the repeal of ch. 31259. However, this was conditioned on the approval of such by the voters in a referendum held in conjunction with the 1958 general election. The records of this office indicate that the repeal was rejected by the voters.

The 1977 revision of the state election laws was another legislative attempt to standardize the general election law in a uniform manner statewide. This revision became effective January 1, 1978. It provides for the duties and responsibilities of the supervisor of elections and the county canvassing board.

The special act creating the Santa Rosa County Election Commission is clearly in conflict with the provisions of the new general law relating to elections. It is a well-established principle of statutory construction that in the event of a conflict between general law and a special act, the general law controls in the absence of a specific legislative intention to the contrary. Such is the case here. The general election law controls and repeals by implication any special act in conflict therewith. Accordingly, ch. 31259, Laws of Florida (1955), has been superseded and the provisions of the general election law should be followed instead.

SUMMARY

The 1977 revision of the general election law superseded and repealed by implication any special or local acts in conflict therewith.