

RESCINDED

DE 80-18 - June 23, 1980

Resign-to-Run Law Section 99.012, Florida Statutes

To: W. Farris, McGee, Esquire, Attorney at Law, P.O. Box 891, Flagler Beach, Florida 32036

Prepared by: Division of Elections

This is in response to your letter to the Attorney General, which has been referred to us as a request for an advisory opinion pursuant to Section 106.23(6), F.S. You ask if a part-time Assistant Public Defender must resign to run in order to seek office as County Judge.

The Assistant Public Defender is an appointed officer under Article V, Section 18 of the Florida Constitution who is exempt from the Resign-to-Run as a "subordinate personnel" within the meaning of Section 99.012(7), F.S., and 1979 Op. Atty. Gen., Fla 079-81 (Sept. 11, 1980). Accordingly, an Assistant Public Defender need not resign to run unless such individual is seeking to qualify for a public office which is currently held by his superior who has qualified as a candidate for reelection to that public office. However, an Assistant Public Defender must take a leave of absence without pay from his employment during the period in which he is seeking election to public office. Section 99.012 (7), F.S. The part-time status of an Assistant Public Defender does not alter this opinion.