

DE 80-25 - July 31, 1980

**Resign-to-Run Law
Section 99.012, Florida Statutes**

To: Honorable Shirley N. King, Supervisor of Elections, Post Office Box 457, Fernandina Beach, Florida 32034

Prepared by: Division of Elections

This is in response you your request for a formal opinion. Your question can be restated:

May a Deputy Clerk of the Circuit Court who has taken a leave of absence to run for the office of Clerk resume his duties so long as he is unopposed in the general election?

It is our understanding that the Clerk's office needs the services of the above-referenced employee and would like him to resume his regular duties as Deputy Clerk so long as it is consistent with the Resign-to-Run Law.

As a Deputy Clerk, this employee is required to take a leave of absence without pay... "during the period in which he is seeking election to public office". Section 99.012(7), F.S. (1979). Deputy Clerk Greeson has complied with this provision of the Resign-to-Run Law.

However, Deputy Clerk Greeson is an unopposed candidate. As such his name will not appear on the ballot, and he shall be deemed to have voted for himself, Section 101.15(6), F.S. (1979). As yet, there are no write-in candidates for the office of Clerk. The deadline for write-in candidate registration is September 22, 1980.

Taking into consideration the special circumstances here, and the fact that Mr. Greeson is an unopposed candidate not actively campaigning for office, we conclude that Mr. Greeson may resume his duties as Deputy Clerk so long as he remains an unopposed candidate. However, if and when a write-in candidate is certified for the Office of Clerk of the Circuit Court, Mr. Greeson would again have to take a leave of absence without pay.

The main purpose of the Resign-to-Run Law is to prevent those who hold public office from using their position to obtain higher office. Holley v. Adams, 238 So. 2d 401 (Fla. 1970). Since Mr. Greeson's election is, at this point, a foregone conclusion, we believe that his reemployment does not raise a potential for abuse of office which necessitates a leave of absence.