

**DE 82-11--June 15, 1982**

**RESIGN-TO-RUN S. 99.012; s. 100.111, F.S. (1981)**

*To: Ms. Jeanne McElmurray, 1661 Sunrise Lane, Sarasota, Florida*

*Prepared By: Division of Elections*

This responds to your request for an opinion regarding your status as a member of the Sarasota- Manatee County Airport Authority.

You have advised that you have intentions of running for the state legislature and desire to know when you must resign your seat on the Sarasota-Manatee Airport Authority.

Section 99.012(2), F.S. (1981), provides:

“(2) No individual may qualify as a candidate for public office who holds another elective or appointive office, whether state, county or municipal, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify without resigning from such office not less than 10 days prior to the first day of qualifying for the office he intends to seek. Said resignation shall be effective not later than the date upon which he would assume office, if elected to the office for which he seeks to qualify, the expiration date of the term of the office which he presently holds, or the general election day at which his successor is elected, whichever occurs earliest . . . .” (Emphasis Supplied)

The first day of qualifying for the state legislature is noon, July 6, 1982. Therefore, you must submit a resignation of your seat on the Sarasota-Manatee County Airport Authority to your county Supervisor of Elections not later than Friday, June 25, 1982. This resignation must be submitted to the Sarasota County Supervisor of Elections with copies to the Governor and this office.

Regarding filling of your expired term should you decide to resign, Chapter 77-651, Laws of Florida, which creates the Authority provides: “a vacancy in authority membership shall be filled as provided by law.”

Section 100.111(1)(a), F.S., states:

“(1)(a) If any vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art IV of the State Constitution and the remainder of the term of such office is 28 months or longer, then at the next general election a person shall be elected to fill the unexpired portion of such term, commencing on the first Tuesday after the first Monday following such general election.

(b) If such a vacancy occurs prior to the first day set by law for qualifying for

election to office at such general election, any person seeking nomination or election to the unexpired portion of the term shall qualify within the time prescribed by law for qualifying for other offices to be filled by election at such general election.”

From the above statutory language, the method of filling the unexpired term created as a result of your resignation would depend upon the effective date of your resignation. If your resignation leaves an unexpired term of twenty-eight (28) months or more, your successor will be elected at the General Election of 1982. If your resignation leaves an unexpired term of less than twenty-eight months, the vacancy will be filled by gubernatorial appointment.

#### SUMMARY

A member of the Sarasota-Manatee County Airport Authority desirous of qualifying for the State legislature must resign such office not less than 10 days prior to the first day of qualifying for the office he/she intends to seek. Filling of the unexpired term of such member would depend upon the time remaining - if 28 months or more, the term would be filled at the next general election; if less than 28 months remains, the vacancy would be filled by gubernatorial appointment.