

DE 83-4 January 14, 1983

THE RESIGN-TO-RUN LAW, s. 99.012, F.S.

To: Ms. Nancy Davis, 809 Shannon Street, Tallahassee, Florida 32301

Prepared by: Division of Elections

Pursuant to your request, this is a Division of Elections Opinion under s. 106.23(2), F.S., on essentially the following question:

"Must a Landfill Scale Clerk who is a career service county employee resign or take a leave of absence in order to qualify for the office of County Commissioner for Leon County?"

Ms. Davis is presently a Landfill Scale Clerk employed with the Leon County Public Works Department at the County landfill site. Her superiors are, in ascending order, the Landfill Supervisor, the Director of the Division of Operations, the Administrator of Public Works and the County Manager.

As a career service employee far down the chain of command, a Landfill Scale Clerk neither exercises the power of an elected or appointed officer nor acts in a direct or indirect way as a subordinate to one who exercises part of the sovereign power entrusted to officers. The Resign-to-Run Law is only applicable to officers and in a limited way to subordinate officers such as police officers and deputy sheriffs. Opp Atty Gen 079-81 (September 11, 1979). Therefore, the resignation and leave of absence requirements of the law are not applicable to a Landfill Scale Clerk. See DE 83-1.

SUMMARY

The resignation and leave of absence provisions of the Resign-to-Run Law are not applicable to a Landfill Scale Clerk.