

RESCINDED

DE 84-7 - February 9, 1984

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

To: Honorable Wilma Anderson, Supervisor of Elections, Citrus County, P.O. Box 965, Inverness, Florida 32650

Prepared by: Division of Elections

This is a Division of Elections Advisory Opinion pursuant to s. 106.23(2), F.S., on essentially the following question:

Must the division director of the Westside Road Department resign or take a leave of absence in order to seek election on the Board of County Commissioners for Citrus County?

The Division Director's superiors are, in ascending order, the department head, the county administrator and the board of county commissioners.

It would appear that the division director of the Westside Road Department is an employee far down the chain of command who neither exercises the power of an elected or appointed office nor acts in a direct or indirect way as the immediate subordinate to one who exercises the sovereign power entrusted to officers. The Resign to Run Law is only applicable to officers and, in a limited way, to subordinate officers, for example, police officers and deputy sheriffs. *Opp. Atty. Gen. 079-81, (September 11, 1979)*; therefore, because the division director is not an officer within the meaning of the law, the resignation and leave of absence requirements are not applicable to him.

While the director is not required to resign or take a leave of absence in order to seek office under the Resign to Run Law, a county might have a rule or regulation, which limit the rights of its employees to seek and hold office while in public employment. See, *Opp. Atty. Gen. 077-31 (March 28, 1977)*; *Metropolitan Dade County v. Santos* 430 So. 2d 506, (Fla. 3rd DCA 1983).

I suggest that the employee contact the appropriate county official to determine if there is a county ordinance or regulation which would prohibit him from seeking office on the Board of County Commissioners.

SUMMARY

A division director in the county and road department is not an officer or subordinate officer within the meaning of the Resign to Run Law, and therefore need not resign or take a leave of absence under s. 99.012(2), F.S., in order to seek elected office.