

**DE 84-20 - June 21, 1984**

**RESIGN TO RUN LAW  
s. 99.012(2). F.S.**

*To: Mrs. Maria Prieto, Secretary-Treasurer, Cedar Hammock Fire Control District,  
5200-26<sup>th</sup> Street, West, Bradenton, Florida 33507*

*Prepared by: Division of Elections*

This is a formal elections opinion pursuant to s. 106.23(2), F.S., on essentially the following questions:

1. Must a member of the Board of Commissioners of the Cedar Hammock Fire Control District, who is appointed by the Governor and who serves without compensation, resign to run for the county commission?
2. Must a lieutenant of the fire control district, who is fully compensated, resign to run for the county commission?

The Resign to Run Law, s. 99.012(2), F.S., contains an exception that exempts a person “who serves as a member of any appointive board or authority without salary” from the resignation requirements of that section. Therefore, a person who is appointed to the Cedar Hammock Fire Control District Board of Commissioners is within this exception to the Resign to Run Law. Such person need not resign or take a leave of absence in order to run for the post of county commissioner.

As regards to your second question, Chapter 57-1546, Section 9, Laws of Florida, provides that the Board of Commissioners of the Cedar Hammock Fire Control District “shall have the authority to hire a Fire Marshal and one or more firemen at salaries to be determined by the Board who shall operate the fire fighting equipment, to inspect all property and check fire hazards.”

A lieutenant of the Fire Control District employed pursuant to the above provision does not exercise the power of an elected or appointed officer within the meaning of the Resign to Run Law. See, State ex rel. Clyatt v. Hocker, 39 Fla. 477, 22 So. 721 (1887) and State ex rel. Holloway v. Sheats, 83 So. 508 (Fla. 1919). Nor is the lieutenant a subordinate personnel within the meaning of s. 99.012(7), F.S., because a subordinate personnel must be an officer who otherwise would be required to resign from his current office when seeking election to another office. See, AGO 079-81. Therefore, the resignation and leave of absence requirements of the Resign to Run Law are not applicable to a lieutenant of the Fire Control District.

However, you should be aware that this ruling is for purposes of the Resign to Run Law only. This opinion does not take into account any local regulations that may require either or both of the above people to resign or take a leave of absence.

## SUMMARY

A Commissioner of the Cedar Hammock Fire Control District who is appointed by the Governor and who serves without salary need not resign or take a leave of absence in order to run for county commission. A lieutenant of the Fire Control District is not an officer or a subordinate personnel within the meaning of the Resign to Run Law, and, therefore, need not resign or take a leave of absence in order to run for county commission.