

DE 89-06 - August 7, 1989

**Assessment of election costs for special mail ballot elections
Sections 97.021(10) and 101.6102(4), F.S.**

*To: Honorable Mary Morgan, Supervisor of Elections, Collier County, Collier Government Complex,
3301 Tamiami Trail East, Naples, Florida 33962*

Prepared by: Division of Elections

This is in response to your request for a formal opinion from the Division of Elections regarding the assessment of elections costs for a special mail ballot election.

The Division of Elections has authority under Section 106.23(2), Florida Statutes, to provide advisory opinions to several categories of persons including supervisors of elections.

Your specific question is:

When a supervisor of elections does a special mail ballot election for a municipality, are the normal salaries paid to staff during the time that their energies and activities are directed solely to the preparation for and in conduct of the election properly chargeable to the municipality?

In 1987 the Florida Legislature enacted the "Mail Ballot Election Act" which provides that certain elections may be conducted by mail ballot. Section 101.6102(4), Florida Statutes, provides that the cost of such a mail ballot shall be borne by the jurisdiction initiating the calling of the election unless otherwise provided by law. I am unaware of any section of the law which provides for a different method of assessment of these costs.

In addition, the 1987 Florida Legislature also added the definition of election costs to the Florida Election Code. Section 97.021(10), Florida Statutes, defines election costs:

Election costs shall include, but not limited to, expenditures for all paper supplies such as envelopes, instructions to voters, affidavits, reports, ballot cards, ballot booklets for absentee voters, postage, notices to voters; advertisements for registration book closings, testing of voting equipment, sample ballots, and polling places; forms used to qualify candidates; polling site rental and equipment delivery and pickup; data-processing time and supplies; election records retention; and labor costs, including those costs uniquely associated with absentee ballot preparation, pollworkers, and election night canvass.

The definition clearly indicates that the election costs shall not be limited to the specified expenditures although the definition does include labor costs. It is apparent that the legislature intended the jurisdiction initiating the call for an election to pay the costs associated with such an election. If you have records indicating actual times spent by your staff devoted solely to the preparation for and

conduct of the municipal election, these costs should be borne by the municipality rather than the county.

I would suggest that you discuss with your attorney the propriety of entering into a written contract with any jurisdiction prior to conducting an election for it.

SUMMARY

When a supervisor of elections does a special mail ballot election for a municipality, the normal salaries paid to staff during the time that their energies and activities are directed solely to the preparation for and in conduct of the election are properly chargeable to the municipality.