

DE 89-13 - December 15, 1989

**Resign-to-Run Law
Section 99.012(1), F.S.**

To: Ms. Norma Celentano, City Clerk, Treasurer, City of Indian Rocks Beach, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 34635

Prepared by: Division of Elections

You have asked for an opinion on the Resign-to-Run Law, Section 99.012, Florida Statutes, which is a part of the Florida Election Code, Chapters 97-106, Florida Statutes. Under the authority granted the Division of Elections in Section 106.23(2), Florida Statutes, the Division may issue advisory opinions to several categories of persons including local officers who have election-related duties. You are City Clerk of the City of Indian Rocks Beach; therefore, the Division has authority to issue this opinion.

Your specific question is:

Whether a person who has been elected to the Indian Rocks Special Fire District must resign to run for City Commissioner for the City of Indian Rocks Beach. The terms of office overlap.

The Resign-to-Run Law provides, in pertinent part:

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.

Section 99.012(2), Fla. Stat.

The central question is whether Section 99.012(2), Florida Statutes, applies to district officers. You will note that the above section of the Resign- to-Run Law provides that a person may not qualify for public office when he holds another public office "whether state, county, or municipal."

This question was answered by the Second District Court of Appeal in Ballard v. Coward, 238 So.2d 484 (1970). See DE 80-7, dated May 4, 1980, in which the Division adopted this ruling in the district officer cases. Also see DE 82-9, dated June 4, 1982, which opinion concurs with DE 80-7. In this case, an appointed member of the Hospital District Board of Hardee County, whose term of office had not expired and who had not tendered resignation from that office, sought to become a member of the Hardee County Commission. Ballard sought a declaratory judgment from the trial court as to whether he was qualified to become a candidate for the county commission and the court found that he was not. Ballard argued that the specific enumeration of "state, county, or municipal," exhausted the

enumeration of the covered offices. The District Court of Appeals also rejected Ballard's argument and held that the words "state, county, or municipal" does not in any way limit the exhaustive term and that a district officer is covered under the Resign-to-Run Law. Therefore, a person who holds an elective office on the Indian Rocks Special Fire District which overlaps with a City of Indian Rocks City Commission seat must resign to run no less than 10 days prior to the first day of qualifying for the office he intends to seek.

SUMMARY

A special district officer who intends to seek elective office which overlaps with the special district office must resign not less than 10 days prior to the first day of qualifying for the office he intends to seek.