

**DE 90-25 - June 5, 1990**

**Permanent Single Registration System  
Sections 98.041 and 98.091(3), F.S.**

*To: Mr. Joseph M. Centorino, Assistant State Attorney, Eleventh Judicial Circuit, Metropolitan Justice Building, 1351 Northwest 12 Street, Miami, Florida 33125-2134*

*To: Honorable David Leahy, Supervisor of Elections, Dade County, Post Office Box 01-2241, Miami, Florida 33101-2241*

*To: Honorable Jack Pyms, Mayor of Islandia, 12805 Southwest 84 Avenue Road, Miami, Florida 33156*

*Prepared by: Division of Elections*

This is in reference to your request for an advisory opinion regarding the voter registration and election procedures in the municipality of Islandia, Dade County, Florida. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue advisory opinions relating to the Florida Election Code, Chapters 97- 106, Florida Statutes, to several categories of persons including supervisors of elections and other local officers having election-related duties.

You asked the following question:

May the City of Islandia qualify electors in municipal elections on the basis of either residency or property ownership criteria established by municipal charter rather than under the Dade County permanent registration system?

Your request for an opinion contains the following information on Islandia. Islandia is a duly incorporated municipality which since its inception in 1960 has conducted voter registration and elections independently of the county voter registration system. The list of qualified voters maintained by the city contains the names of persons whose names do not appear on the list of qualified voters maintained by the county registration system for the Dade County precinct where Islandia is located. The names that do appear on the county list do not appear on the list maintained by the city.

Most of the persons who have been qualified and who have voted in past municipal elections in Islandia have not been actual residents of Islandia, i.e., they have not maintained any type of dwelling place in the municipality. The basis for this is a provision in the Islandia City Charter, Amendment 17, where under the definition of "resident" is broadened to include certain owners of property within the city as well as persons who reside within the city. There are fewer persons residing in the city than persons meeting the property ownership criteria.

The present city administration asserts that the uniqueness of the municipality in terms of its population and geographical location justify Islandia's broad definition of "resident." In addition, the city administration argues that its registration system was in place prior to the adoption of a uniform

system of voter registration in Dade County, and, therefore, the practice should be allowed to stand.

Chapter Law 73-155, Laws of Florida, effective January 1, 1974, mandated a permanent single registration system for the registration of electors to qualify the electors to vote in all elections. This system was to be put into use by all municipalities prior to January 1, 1974 and was "in lieu of any other system of municipal registration." Op. Att'y Gen. Fla. 73-426 (quoting Chapter 73-155, Laws of Fla.).

In 1977, the Attorney General opined that the permanent single registration system established by Chapter Law 73-155, Laws of Florida, and contained in Section 98.041, Florida Statutes, was binding upon all municipalities. Op. Att'y Gen. Fla. 77- 109. The Attorney General stated that the Legislature had preempted the field of voter registration and that a municipal charter providing for a different system of registration of municipal electors had been superseded by general law. Op. Att'y Gen. Fla. 77-109.

On June 30, 1977 the Supreme Court of Florida found that Section 98.041, Florida Statutes, implicitly repealed the provision of the city charter of the Town of Indian River Shores that provided that the qualifications for municipal electors would be those persons who were town residents or who owned real estate in the town for at least six months at the time of municipal elections. Town of Indian River Shores v. Richey, 348 So.2d 1 (Fla. 1977).

In our opinion, based upon the clear language of Section 98.041, Florida Statutes, and the interpretation given this section by the Supreme Court of Florida, Section 98.041, Florida Statutes, supersedes Amendment 17 of the Islandia City Charter. In addition, Section 98.091(3), Florida Statutes, provides that any person who is a registered elector and resides within the boundaries of a municipality is qualified to participate in all municipal elections, the provisions of special acts or local charters notwithstanding. This section also provides that electors who are not registered under the permanent registration system are not permitted to vote.

Therefore, the City of Islandia may not qualify electors in municipal elections based upon either residency or property ownership criteria established by municipal charter. Section 98.041, Florida Statutes, provides a single permanent registration system for the registration of electors to qualify the electors to vote in all municipal and county elections. Any person who is a registered elector and resides within the boundaries of a municipality is qualified to participate in all municipal elections, the provisions of special acts or local charters notwithstanding. Electors who are not registered under the permanent registration system are not permitted to vote.

## **SUMMARY**

The City of Islandia may not qualify electors in municipal elections on the basis of either residency or property ownership criteria established by the municipal charter of Islandia. Pursuant to Section 98.041, Florida Statutes, the municipalities and the counties must use a permanent single registration system for the registration of all electors. This system is in lieu of any other system of municipal registration. In addition, Section 98.091(3), Florida Statutes, provides that any duly registered elector

who resides within the boundaries of a municipality is qualified to participate in all municipal elections, and that an elector who is not registered under the permanent registration system is not permitted to vote.