

DE 90-27 - June 5, 1990

**Resign-to-Run
Section 99.012(2), F.S.**

To: Honorable Horace A. Andrews, Pinellas County Court Judge, 5100 - 144 Avenue, North, Clearwater, Florida 33520

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on the Resign-to-Run Law. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes.

You are a county court judge and plan to resign your position about July 1, 1990. However, your resignation will be effective January 7, 1991.

You ask, if you resign pursuant to the Resign-to-Run Law, will the vacancy created by your resignation be filled by election or by the Governor.

The Resign-to-Run Law requires an elected or appointed officer to irrevocably resign when seeking an elected office which runs concurrently, or any part runs concurrently, with the term of office he presently holds. Section 99.012(2), Fla. Stat. A county court judge is an officer for the purposes of the Resign-to-Run Law. Op. Att'y Gen. Fla. 72-183 (May 31, 1972).

Section 99.012(2), Florida Statutes, provides that when an officer resigns pursuant to the Resign-to-Run Law, the resignation creates a vacancy in office, "thereby permitting persons to qualify as candidates for nomination and election to that office in the same manner as if the term of such public office were otherwise scheduled to expire." Therefore, it is our interpretation, that if you resign pursuant to the Resign-to-Run Law, the vacancy in office will be filled by election.

SUMMARY

When a county court judge resigns to run for another office pursuant to the Resign-to-Run Law, there is a vacancy in the county court judgeship which will be filled as if the term of the county court judgeship were scheduled to expire.