

DE 94-05 - March 3, 1994

**Time of Election
Sections 97.021(12), 100.041(2) and 100.181, F.S.**

TO: The Honorable Wilma Anderson, Supervisor of Elections, Citrus County, Post Office Box 965, Inverness, Florida 32651-0965

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding the date or time a person is elected. You are the Citrus County Supervisor of Elections and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

You ask:

At what time or date is a candidate for county commissioner considered elected?

For the reasons which follow, a candidate for county commissioner is considered "elected" when all the votes are cast at a general or special election and it has been determined that the candidate has received a plurality of the votes cast.

Pursuant to Section 100.041(2), Florida Statutes:

Each county commissioner from an odd-numbered district shall be elected at the general election in each year the number of which is a multiple of 4, for a 4-year term commencing on the second Tuesday following such election, and each county commissioner from an even-numbered district shall be elected at the general election in each even-numbered year the number of which is not a multiple of 4, for a 4-year term commencing on the second Tuesday following such election.

General election is defined at Section 97.021(12), Florida Statutes, to mean:

[A]n election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices

The Florida Supreme Court established in Alexander v. Booth, 56 So. 2d 716 (Fla. 1952) that the primary meaning of the word election is "choice; the act of choosing." Id. at 719. Additionally, election has been defined as "the choice which several persons collectively make of a person to fill an office or place." Id. Furthermore, Section 100.181, Florida Statutes, states that a person is determined to be elected if that person receives "the highest number of votes cast in a general or special election for an office."

Therefore, a candidate for the board of county commissioners is considered elected after the votes are cast at the general election held on the first Tuesday after the first Monday in November in even-numbered years or at a special election conducted for the purpose of filling a vacancy in office and after it has been determined that the candidate has received a plurality of the votes cast.

SUMMARY

A candidate for the board of county commissioners is considered elected after the votes are cast at a general election held on the first Tuesday after the first Monday in November in even-numbered years or at a special election conducted for the purpose of filling a vacancy in office and after it has been determined that the candidate has received a plurality of the votes cast.