

DE 97-05 - November 18, 1997

Confidentiality of Information in Voter Registration Applications
§§ 97.052, 97.0585(2), 98.095, 98.097, 98.212, F.S. (1996). Ch. 97-13, Laws of Fla.

TO: The Honorable Mary Morgan, Supervisor of Elections, Collier County, Collier County Government Center, 3301 Tamiami Trail East, Naples, FL 33962-4971

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding the confidentiality of certain voter registration information. The Division is authorized to provide this advisory opinion to you, as the Collier County Supervisor of Elections, pursuant to section 106.23(2), Florida Statutes. In your request, you essentially ask two questions:

1. Are social security numbers that are voluntarily supplied by voters in registration applications exempt from disclosure under the public records law, Chapter 119, Florida Statutes?
2. Would you, as the supervisor of elections, be subject to suspension from office if you supply the registration information described in section 97.0585(2), Florida Statutes, (voter signatures, social security numbers, and telephone numbers) to the Division of Elections?

DISCUSSION

Your questions involve the interpretation of a number of laws dealing with registration records and the newly established central voter file. Effective January 1, 1998, sections 98.097 and 98.212, Florida Statutes, as created and amended by Chapter 97-13, Laws of Florida, respectively, establish a central voter file, and require that supervisors of elections provide the necessary information to create and maintain that file.

The various state and federal laws dealing with public records and the confidentiality of social security numbers, pose no difficulties for development of the central voter file. The Privacy Act of 1974, prohibits the denial of any right, benefit, or privilege because of an individual's refusal to provide a social security number. Doyle v. Wilson, 529 F. Supp. 1343, 1347, (1982). Florida law recognizes this prohibition in section 97.052, Florida Statutes, which provides that uniform statewide voter registration applications must contain a notice that disclosure of one's social security number is purely voluntary, and that if included on the application, it will be open to public inspection. Thus, the current registration application complies with federal law, given that the right to vote is not conditioned upon providing one's social security number.

With regard to public inspection, section 98.095, Florida Statutes, provides that voter registration books are public records which the general public may inspect and examine while in the custody of the

supervisor of elections. Notwithstanding the provisions of section 98.095, Florida Statutes, certain voter registration information is absolutely confidential. This information includes a person's declination to register and where that person registered or updated his voter registration. § 97.0585, *Fla. Stat.* (Supp. 1996)

Section 98.097, Florida Statutes, reads, "[A]ll voter registration records and other information in the central voter file, excluding any information that is confidential or exempt from public records requirements, shall be considered public records for the purposes of chapter 119." (emphasis added). Voluntarily supplied social security numbers enjoy limited protection from disclosure under section 97.0585, Florida Statutes, in that they may be inspected but not copied and are "exempt for that purpose from s. 119.07(1) and s.24(a), Art. I of the State Constitution." We interpret this section, together with the sections referred to above, to mean that social security numbers that have been supplied voluntarily must be made available for public inspection, but cannot be copied or given out in response to a request for the voter file pursuant to section 98.095(2), Florida Statutes.

Notwithstanding the foregoing discussion regarding the confidentiality of social security numbers, section 97.0585, Florida Statutes, cannot be read to prohibit a supervisor from supplying the information required by section 98.212, Florida Statutes, to another governmental agency, namely the Department of State. Section 98.212(3), Florida Statutes, contains a specific directive to the county supervisors of elections to "provide information as requested by the Department for creation and maintenance of the central voter file." Once supplied by a supervisor, the Division must maintain the confidentiality of the information in question, and can only supply information to the entities authorized in section 98.095(2), Florida Statutes. You would not be subject to suspension from office for providing voter registration information to the Division or to any of the entities, for the purpose of maintaining the central voter file.

As an additional point of information, the Division is not required to file an oath of acquisition prior to obtaining voter registration information for the central voter file. That requirement applies only to requests for county registration information, pursuant to section 98.095, Florida Statutes, and would not apply in this instance.

SUMMARY

Voter's signatures, telephone numbers and voluntarily supplied social security numbers are exempt from the provisions of Chapter 119, Florida Statutes, for the limited purpose of copying, but may be inspected. As the Supervisor of Elections, you will not be subject to suspension from office by the Governor for supplying voter registration information to the Division of Elections, as mandated by section 98.212, Florida Statutes.