

DE 99-02 - July 15, 1999

Verification of Signatures on Petitions
§99.097(4), Fla. Stat. (1997)

TO: The Honorable David C. Leahy, Supervisor of Elections, Miami-Dade County, Suite 1910, 111 N. W. 1st Street, Miami, Florida 33128-1962

Prepared by: Division of Elections

This is in response to your request for an opinion concerning the provisions of section 99.097(4), Florida Statutes. You are the supervisor of elections for Miami-Dade County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you. You ask the following:

Do the provisions of section 99.097(4), Florida Statutes, apply to all petitions to have an issue placed upon the ballot, including county and municipal petitions, or only constitutional amendment initiative petitions?

It is the opinion of the Division that section 99.097(4), Florida Statutes, applies to all petitions. Section 99.097, Florida Statutes, sets forth general procedures used by a supervisor of elections to verify signatures on petitions. Section 99.097(4), Florida Statutes, provides in part:

The supervisor shall be paid in advance the sum of 10 cents for each signature checked or the actual cost of checking such signature, whichever is less, by the candidate, minor party, or person authorized by such minor party submitting the petition or, in the case of a petition to have an issue placed on the ballot, by the person or organization submitting the petition. (Emphasis added.)

The term "issue" as used in chapters 97-105, Florida Statutes, is not defined. Therefore, rules of statutory construction must be used to determine what is meant by the term "issue" in Section 99.097(4), Florida Statutes. It is a general rule of statutory construction that a statute must be construed in its entirety and as a whole. *Vocelle v. Knight Bros. Paper Co.*, 118 So.2d 664 (Fla. 1st DCA 1960). The language in a particular provision of a statute is to be construed with reference to the statute of which it is a part. *Id.* Significance and effect must be given to every word, phrase, sentence and part of the statute. *Id.*

In applying this rule of statutory construction, I direct your attention to section 99.097(3)(a), Florida Statutes, which provides in pertinent part:

In any situation in which the code requires the form of the petition to be prescribed by the division, no signature shall be counted toward the number of signatures required unless it is on a petition form prescribed by the division. (Emphasis added.)

Both candidate petitions and constitutional amendment initiative petitions are required to be submitted on a form prescribed by the division. (See §§ 99.095(2), 99.0955(1) and 100.371, Fla. Stat.) Other "issue" petitions such as municipal recall petitions are not required to be on a form prescribed by the division. Thus, it is obvious from the language of section 99.097(3), Florida Statutes, that the legislature contemplated that a supervisor of elections would verify signatures on issue petitions other than constitutional amendment initiative petitions. In order to give significance and effect to the language in section 99.097(3)(a), Florida Statutes, the Division must interpret the provisions of section 99.097(4), Florida Statutes to apply to all petitions to have an issue placed on the ballot.

It is also a general rule of statutory construction that where the legislature uses exact words or phrases, though in different statutory provisions, the words are assumed to mean the same thing. *Goldstein v. Acme Concrete Corp.*, 103 So.2d 202 (Fla. 1958). Further, there is a presumption that the same words used in different parts of an act have the same meaning. *Medical Center Hosp. v. Bowen*, 811 F.2d 1448 (11th Cir. 1987).

"Issue" is defined for purposes of chapter 106 in section 106.011(7), Florida Statutes, as:

[A]ny proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election.

Based upon this definition, it is clear that section 99.097(4), Florida Statutes, applies to all petitions to have an issue placed upon the ballot.

SUMMARY

The provisions of section 99.097(4), Florida Statutes, apply to all petitions to have an issue placed upon the ballot, including county and municipal petitions.