

**DE 99-05 - October 26, 1999**

**Placement of Special District Candidates on the Primary and General Election Ballots  
§§101.141, 101.151, and 101.161, Fla. Stat.**

*TO: The Honorable Marilyn Gerkin, Supervisor of Elections*

*Prepared by: Division of Elections*

This is in response to your request for an opinion concerning ballot placement for special district elections. You are the Supervisor of Elections for Sarasota County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you. In essence, you ask:

When a special district will have both candidates and referenda on the ballot, should the special district ballot be split, or should these special district candidates and issues appear together on the ballot?

The answer to your question is that the special district ballot should be separated. The names of special district candidates should appear in the "candidates" portion of the ballot before any constitutional amendments or other public measures. Any special district referenda should appear in the "issues" portion of the ballot.

Sections 101.141 and 101.151, Florida Statutes, specify the order in which candidates' names must appear on the ballot. (*See also §101.191, Fla Stat.*, for form of general election ballot.) Neither section 101.141 nor 101.151, Florida Statutes, addresses the placement of special district candidates on the ballot. However, section 101.161(1), Florida Statutes, sets forth guidelines for placing referenda on the ballot, and provides in pertinent part:

Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure should be printed in clear and unambiguous language on the ballot after the list of candidates . . .

(Emphasis added.)

Sections 101.141(6) and 101.151(8), Florida Statutes, allow the Department of State to prescribe ballot requirements if directions for ballot preparation in these sections are insufficient. As there are no ballot directions for special districts, the Division has the authority to determine where special district candidates appear on the ballot. Accordingly, it is the Division's opinion that all candidate names, including special district candidates, must be placed on the ballot before constitutional amendments and other public measures pursuant to the language of section 101.161(1), Florida Statutes.

**SUMMARY**

When a special district will have both candidates and referenda on the ballot, the names of special district candidates should appear in the "candidates" portion of the ballot before any constitutional amendments or other public measure. Any special district referenda should appear in the "issues" portion of the ballot.