

**Municipal Charter Provisions for Poll Watchers
§§ 100.3605 and 101.131(2), Fla. Stat.**

TO: Mr. John C. Dellagloria, City Attorney, City of North Miami, 776 Northeast 125th Street North Miami, Florida 33261-0850

Prepared by: Division of Elections

This is in response to your request for an opinion. You are the city attorney of the City of North Miami and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue an opinion to you. You ask:

Does section 101.131, Florida Statutes, in conjunction with section 100.3605, Florida Statutes, prevent a city from allowing candidates a different time frame to appoint poll watchers than the time period provided by statute?

The answer to your question is no. Section 100.3605(1), Florida Statutes, provides:

The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.

(Emphasis added.) Section 101.131(2), Florida Statutes, provides:

Each party and each candidate requesting to have poll watchers shall designate, in writing, poll watchers for each precinct prior to noon of the second Tuesday preceding the election. The poll watchers for each precinct shall be approved by the supervisor of elections on or before the Tuesday before the election. The supervisor shall furnish to each precinct a list of the poll watchers designated and approved for such precinct.

Section 170(a) of the North Miami City charter provides that a candidate may designate poll watchers as late as five days prior to an election. It is clear that section 170(a) of the North Miami City charter conflicts with section 101.131(2), Florida Statutes. However, section 101.131, Florida Statutes, is not expressly applicable to municipalities. Therefore, section 100.3605, Florida Statutes, does not prevent the City of North Miami from having a charter provision that allows city candidates a different time frame to appoint poll watchers than the time specified in section 101.131(2), Florida Statutes.

SUMMARY

Section 101.131, Florida Statutes, is not expressly applicable to municipalities. Therefore, section

100.3605, Florida Statutes, does not prevent the City of North Miami from having a charter provision that allows city candidates a different time frame to appoint poll watchers than the time specified in section 101.131(2), Florida Statutes.