

**DE 02-04 - April 10, 2002**

**Mail Ballot Election**  
**§ 106.23(2), 567, 101.6101-101.6107, 101.6102(2),**  
**567.03, 567.07, Florida Statutes**

*To: The Honorable Doug Wilkes, Supervisor of Elections, Santa Rosa County, 6495 Caroline Street, Milton, Florida 32570*

*Prepared by: Division of Elections*

Dear Mr. Wilkes:

This is in response to your request for an advisory opinion regarding mail ballot elections. You are the Supervisor of Elections for Santa Rosa County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue an opinion to you. You ask:

Would it be lawful to conduct a Local Option Election as prescribed in Chapter 567, Florida Statutes, as a Mail Ballot Election as prescribed by the "Mail Ballot Election Act", Sections 101.6101 - 101.6107, Florida Statutes?

The answer to your question is yes.

The "Mail Ballot Election Act" is prescribed in sections 101.6101 - 101.6107, Florida Statutes. These sections provide that a mail ballot election may be conducted if:

"1. The election is a referendum election at which all or a portion of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

- (a) Counties;
- (b) Cities;
- (c) School districts covering no more than one county, or;
- (d) Special districts;

2. The governing body responsible for calling the election and the supervisor of elections responsible for the conduct of the election authorize the use of mail ballots for the election; and

3. The Secretary of State approves a written plan for the conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the supervisor of elections."

In addition, a mail ballot election may not be conducted if there are any candidates on the ballot or if the election is held on the same day as another election in the same jurisdiction. See 101.6102(2), Florida Statutes.

A local option election is held to determine if the sale of intoxicating liquors, wines, or beer shall be prohibited; and if allowed, whether to allow the sales by the package only or sales by the package and drink. Section 567.07, Florida Statutes. For a local option election, the mode of the election is to be the same as general elections. Section 567.03, Florida Statutes. Therefore, a local option election would fall within the requirements of a mail ballot election and may be held accordingly. It should be noted that all applicable procedures must be complied with.

### **SUMMARY**

A local option election as provided in Chapter 567, Florida Statutes, may be held by mail ballot election.

Sincerely,

L. Clayton Roberts  
Director, Division of Elections

Prepared by:  
Amy K. Tuck  
Assistant General Counsel

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