

September 12, 2007

The Honorable Ann McFall
Volusia County Supervisor of Elections
125 West New York Avenue
DeLand, Florida 32720-5415

RE: DE 07-04
Municipal Elections; Poll Workers - Training
§§ 102.3605(1) and 102.014, Florida Statutes

Dear Ms. McFall:

This letter responds to your request for an advisory opinion. You are the Supervisor of Elections for Volusia County; therefore, the Division has the authority to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2007).

As background, you provide that all municipal elections in Volusia County are set by local law (Chapter 95-462, as updated by Chapter 98-506), which states:

The first election designated for a municipality shall be held 28 days prior to the first Tuesday after the first Monday in November of each odd-numbered year. The second election designated for a municipality shall be held the first Tuesday after the first Monday in November of each odd-numbered year.

In 2007, the elections for municipalities will occur on October 9th and November 6th. You begin poll worker training for these elections in the first week in September, but qualifying does not end until September 6th; therefore, you will not know until then which municipalities will actually have an October election. You believe that if you train poll workers in September for the October municipal election and the municipality does not have the first election in October, then the September training would be valid for the November election. However, if the municipality does have an October election, then as you interpret s. 102.014, Florida Statutes (2007), those poll workers who were trained in September would have to receive training again to be a poll worker for the November election.

You ask essentially the following questions:

1. Because the two elections are less than 30 days apart, does the poll worker training held in September suffice for both the October and November elections?

2. If a supervisor of elections is required to provide poll worker training for each election, does a method exist to request a waiver of the training for the second training?

The short answers to both your questions are “no” in the absence of an applicable special act, charter, or ordinance provision that changes the application of Florida’s Election Code for poll worker training in municipal elections.

With regard to your first question, section 100.3605(1), Florida Statutes (2007), states:

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 supplied.]

Section 102.012(1), Florida Statutes (2007), defines a poll worker:

The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint an election board comprised of poll workers who serve as clerks or inspectors for each precinct in the county.... [Emphasis supplied.]

Also, section 102.014, Florida Statutes (2007), in part, states:

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. The Division of Elections shall develop a statewide uniform training curriculum for poll workers, and each supervisor shall use such curriculum in training poll workers. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills. ...

(4) Each supervisor of elections shall be responsible for training inspectors and clerks, subject to the following minimum requirements:

(a) No clerk shall be entitled to work at the polls unless he or she has had a minimum of 3 hours of training prior to each election.

(b) No inspector shall work at the polls unless he or she has had a minimum of 2 hours of training prior to each election. [Emphasis supplied.]

Section 102.014, Florida Statutes (2007), is not *expressly* made applicable to municipalities; therefore, by “applicable special act, charter, or ordinance provision,” a municipality could exempt itself from the Election Code’s poll worker training requirement. However, in the absence of the “applicable special act, charter, or ordinance provision,” municipalities must comply with the Election Code’s provisions for poll worker training. Section 100.3605(1), Florida Statutes (2007). Such training must occur prior to each municipal primary, general or special election. The statute contains no exceptions for first and second elections or for a primary followed by a general election.

Based upon the plain language of the applicable statutory provisions, poll worker training that occurs in September for a first municipal election to occur in October may not carry over for the second election in November. The statutory mandate is to have poll worker training prior to each election. However, we agree with your interpretation that if the October election is not held, then the September poll worker training would suffice for the next municipal election, presumably, the one in November.

Regarding your second question, there is no waiver process for a supervisor of elections to request a waiver of poll worker training when elections are held in close proximity to one another. No statutory authority exists for such waivers. Therefore, unless a municipality is exempt by “applicable special act, charter, or ordinance provision,” it must conduct poll worker training prior to each municipal primary, general, or special election.

SUMMARY

In the absence of an applicable special act, charter, or ordinance provision that exempts the application of Florida’s Election Code for poll worker training in municipal elections, poll worker training must occur prior to each municipal primary, general, and special election. No process exists to obtain a waiver from conducting poll worker training prior to each municipal primary, general, or special election when those elections are held in close proximity to one another.

Sincerely,

Amy K. Tuck
Director, Division of Elections

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