



FYI

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 16, 2015

The Honorable Lori Scott
Brevard County Supervisor of Elections
2725 Judge Fran Jamieson Way
Building C
Melbourne, Florida 32940

Re: DE 15-05 Qualifying – Special District
Office – § 99.061(3), Fla. Stat.

Dear Supervisor Scott:

You are the Supervisor of Elections for Brevard County, Florida, and you are also the filing officer for candidates who wish to seek the office of port commissioner for the Canaveral Port Authority. You request an advisory opinion as to the method for candidates to qualify for port commissioner. The Division of Elections has the authority to issue you an advisory opinion pursuant to section 106.23(2), Florida Statutes.

FACTS

The Canaveral Port Authority is the governing body of the Canaveral Port District, which is a special district within Brevard County, Florida, that has been in existence for many years. The Canaveral Port District's charter provides procedures for a candidate to qualify for the office of port commissioner, a special district office; but the Florida Election Code provides for a different manner of qualifying for special district office. You essentially ask whether candidates for port commissioner should follow the qualifying procedures set out in the special district's charter;¹ or, on the other hand, whether they should follow the qualifying procedures set out in chapter 99 of the Election Code.

¹The Division emphasizes that in this particular case, the issue is not whether a special district may adopt local provisions that conflict with the Election Code; rather, here, the issue is whether a special district charter *which was duly put into effect by the Legislature as part of a special act* should control over contrary provisions in the Election Code. *Cf.* § 97.0115, Fla. Stat. ("All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law").

ANALYSIS

Section 99.061, Florida Statutes, establishes the procedure for qualifying for a special district office. In 1983, the Legislature amended section 99.061 to add “special district office” to the list of offices for which candidates must qualify pursuant to section 99.061. *See* Ch. 83-25, § 2, Laws of Fla. The section 99.061 provision that has governed qualifying for special district office since 2008 has provided as follows:

Notwithstanding the provisions of any special act to the contrary, each person seeking to qualify for election to a special district office shall qualify between noon of the 71st day prior to the primary election and noon of the 67th day prior to the date of the primary election. Candidates for single-county special districts shall qualify with the supervisor of elections in the county in which the district is located. If the district is a multicounty district, candidates shall qualify with the Department of State. *All special district candidates shall qualify by paying a filing fee of \$25 or qualify by the petition process pursuant to s. 99.095.* Notwithstanding s. 106.021, a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository.

§ 99.061(3), Fla. Stat. (emphasis supplied); *see* Ch. 2007-30, § 16, Laws of Fla.

More recently, during the 2014 Legislative Session, the Legislature passed a special act to re-create and reenact the charter of the Canaveral Port District. *See* Ch. 2014-241, Laws of Fla. This special act contains a provision which specifically details how Canaveral Port Authority commissioners are to qualify for office, as follows:

Candidates for nomination in primary elections shall pay the same filing fee to the Clerk of the Board of County Commissioners; file in the same manner the like oaths, sworn statements, and receipts for party assessments; be governed by the same restrictions; be subject to like party assessments by the County Executive Committees of the respective political parties; and in all respects comply with the general laws of Florida governing candidates for Board of County Commissioners in primaries.

Ch. 2014-241, Laws of Fla., Art. V(2)(c).

In its 2015 regular session, the Legislature, as it customarily does each year, adopted the compilation of the public statutes of 2014—along with the changes and amendments made by the 2015 Legislature—as the official statute law of the state. *See* § 11.2421, Fla. Stat. (2015). Only the public statutes of 2014 of a “general and permanent nature” were adopted and enacted. *See id.*

There is a presumption that laws are passed by the Legislature with knowledge of all prior laws already on the books. *See Woodgate Dev. Corp. v. Hamilton Inv. Trust*, 351 So. 2d 14, 16

The Honorable Lori Scott

December 16, 2015

Page 3 of 3

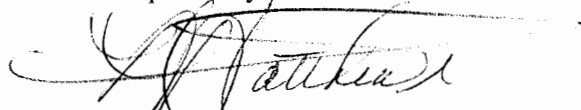
(Fla. 1977). Thus, statutes that appear to conflict should be construed in a manner that harmonizes them if possible. *See Floyd v. Bentley*, 496 So. 2d 862, 864 (Fla. 2d DCA 1986). Moreover, “a general act will not be held to repeal or modify a special one . . . unless the general act is a general revision of the whole subject, or unless the two acts are so repugnant and irreconcilable as to indicate a legislative intent that the one should repeal or modify the other.” *Sanders v. Howell*, 73 Fla. 563, 570 (1917).²

Here, the provisions at issue—section 99.061(3), on the one hand, and the special act for the Canaveral Port District charter, on the other hand—are not so irreconcilable so as to indicate an intent by the Legislature that the general provisions of section 99.061 should repeal or modify the very specific provisions of the Canaveral Port District charter. It is entirely conceivable that the Legislature intended section 99.061, as a general rule, to govern the qualifying process for special district office; but intended the Canaveral Port District charter to specifically govern the qualifying processes for Canaveral Port Authority commissioners. Both statutes should be given effect to the greatest extent possible. Therefore, it is the opinion of the Division that insofar as it relates to the qualifying processes for Canaveral Port Authority commissioners, the Canaveral Port District charter should control over any contrary provisions in section 99.061.

SUMMARY

The Canaveral Port District charter, which was enacted by special act of the Legislature, governs the process for qualifying as a Canaveral Port Authority commissioner and controls over any provisions in section 99.061, Florida Statutes, to the contrary.

Respectfully,

A handwritten signature in black ink, appearing to read "Maria I. Matthews", written over a horizontal line.

Maria I. Matthews, Esq.

Director, Division of Elections

²The *Sanders* Court used the Latin maxim *generalia specialibus non derogant* (meaning that things general do not restrict or detract from things special) to support its holding. *See Sanders*, 73 Fla. at 570; *Black’s Law Dictionary* 1916 (10th ed. 2014).