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CHARTER REVIEW BOARD

September 20, 2010

The Honorable Ken Hagan, Chairman
Hillsborough Board of County Commissioners
Post Office Box 1110
Tampa, FL 33601

Dear Chairman Hagan:

On behalf of the Hillsborough County Charter Review Board (CRB), we respectfully request that the Board of County Commissioners (Board) explore the issue of requiring county commission aides to "resign to run." This idea was brought to the attention of the CRB for discussion and potential action. After lengthy discussion the CRB concluded that the issue cannot be cured within its purview via charter amendment, and voted to present it to the Board for its consideration.

Our research has found that Ch. 99.012, F.S., and Section 19 of the Hillsborough County Civil Service Act, mandate that elected officials and government employees resign and/or take a leave of absence from their position if they file to run for a public office in which the incumbent in authority has qualified for reelection. However, county commission aides are not covered by these provisions.

We believe that the law intended for all government personnel to enjoy equal treatment and protection. Including county commission aides in the "resign to run" requirements will correct this omission. This can be accomplished by the Board through the enactment of an ordinance or policy.

Thank you for the opportunity to share this matter with the Board. Please contact us if you have any questions, or if we may be of further assistance.

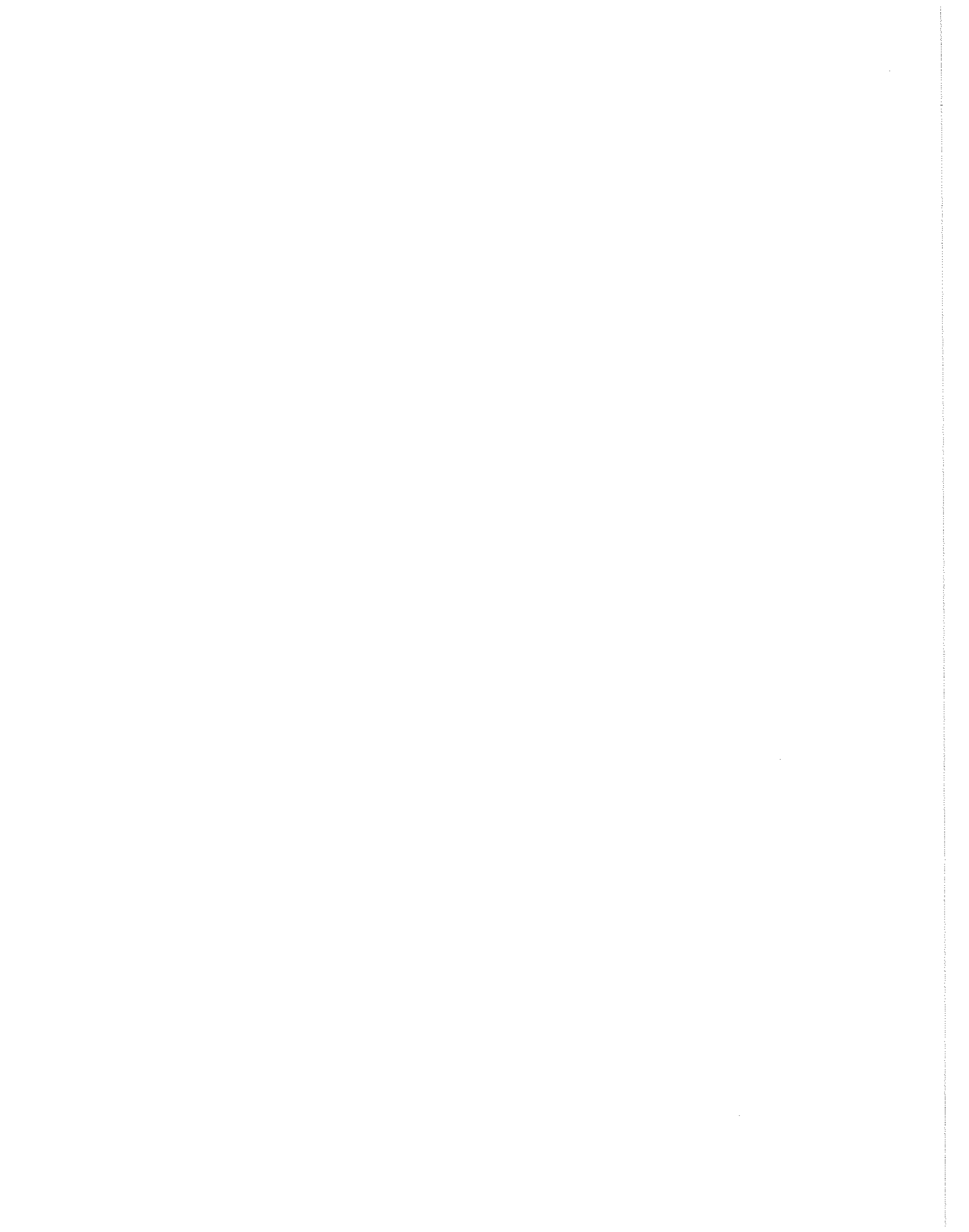
Sincerely,

Mitch Thrower, III
Chairman

Enclosures

cc: Board of County Commissioners
Michael S. Merrill, Interim County Administrator
Renee F. Lee, County Attorney
Edith M. Stewart, Public Affairs Administrator
Gene Gardner, Director, Hillsborough County Civil Service Board

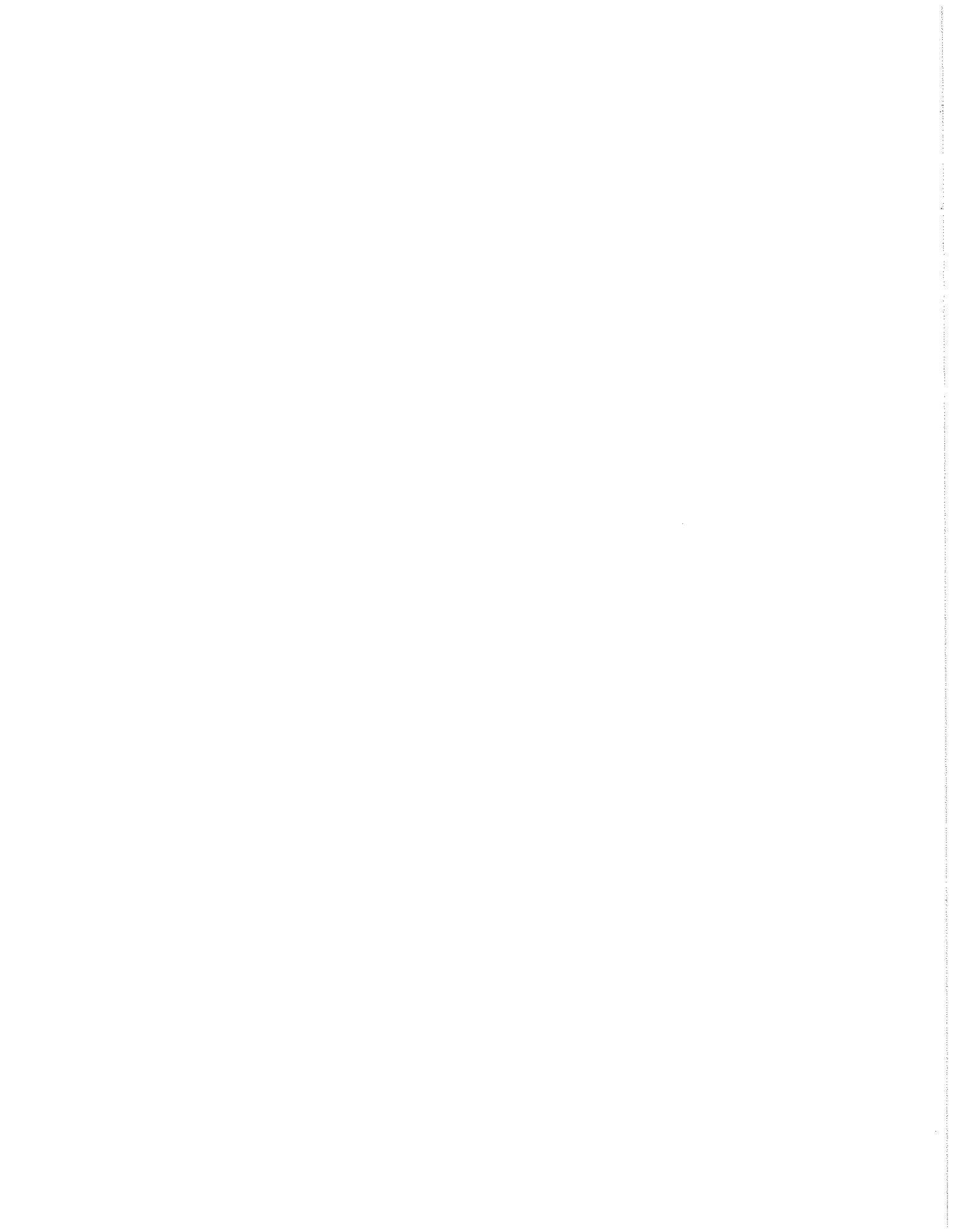
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TYPE OF EMPLOYEE	APPLICABLE LAW	MUST RESIGN IF...	MUST TAKE A LEAVE OF ABSENCE
Subject to Civil service, but does not work under the County Administrator	Civil Service Act; State Law (Sec. 99.012, Fla. Stat.)**	Running against a qualified incumbent who has the authority over the employee	Yes, during the period in which the person is seeking election to office
Subject to Civil Service, and does work for the County Administrator	Civil Service Act; State Law (Sec. 99.012, Fla. Stat.), Administrative Directive 150	Running against a qualified incumbent who has the authority over the employee, OR If seeking to qualify for a position on the commission in which the incumbent has qualified for reelection	Yes, during the period in which the person is seeking election to office
NOT subject to civil service, but does work under the County Administrator	Administrative Directive 150; State Law	If seeking to qualify for a position on the commission in which the incumbent has qualified for reelection	Yes, during the period in which the person is seeking election to office

**** Florida Statutes Section 99.012 applies to "Officer"'s** (a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state) **"Subordinate officer"'s** (a person who has been delegated the authority to exercise the sovereign power of the state by an officer.

This statute does apply to elected officials, but does not typically apply to county employees. The application of this provision depends on the specific facts of each case, and is very difficult to generalize.



Select Year: 2010

Go

The 2010 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 99](#)
CANDIDATES

[View Entire Chapter](#)

99.012 Restrictions on individuals qualifying for public office.—

(1) As used in this section:

(a) “Officer” means a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state. With respect to a municipality, the term “officer” means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter.

(b) “Subordinate officer” means a person who has been delegated the authority to exercise the sovereign power of the state by an officer. With respect to a municipality, subordinate officer means a person who has been delegated the authority to exercise municipal power by an officer.

(2) No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

(3)(a) No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.

(b) The resignation is irrevocable.

(c) The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he or she intends to seek.

(d) The resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or
2. The date the officer’s successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his or her resignation to the officer before whom he or she qualified for the office he or she holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his or her resignation to the officer or authority which appointed him or her to the office he or she holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. With regard to an elective office, the resignation creates a vacancy in office to be filled by election. Persons may qualify as candidates for nomination and election as if the public officer’s term were otherwise scheduled to expire.

2. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer’s resignation may be filled for that portion of the officer’s unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.

(g) Any officer who submits his or her resignation, effective immediately or effective on a date

prior to the date of his or her qualifying for office, may then qualify for office as a nonofficeholder, and the provisions of this subsection do not apply.

(4) A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter if the person is seeking to qualify for a public office that is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(5) The name of any person who does not comply with this section may be removed from every ballot on which it appears when ordered by a circuit court upon the petition of an elector or the Department of State.

(6) This section does not apply to:

(a) Political party offices.

(b) Persons serving without salary as members of an appointive board or authority.

(7) Nothing contained in subsection (3) relates to persons holding any federal office.

History.— s. 1, ch. 63-269; s. 2, ch. 65-378; s. 1, ch. 70-80; s. 10, ch. 71-373; s. 1, ch. 74-76; s. 3, ch. 75-196; s. 1, ch. 79-391; s. 47, ch. 81-259; s. 1, ch. 83-15; s. 28, ch. 84-302; s. 31, ch. 91-107; s. 534, ch. 95-147; s. 1, ch. 99-146; s. 1, ch. 2000-274; s. 14, ch. 2007-30; s. 14, ch. 2008-4; s. 9, ch. 2008-95.

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Laws of Florida - Civil Service Act
2000-445

An act relating to Hillsborough County; consolidating, compiling, codifying, revising for the purposes of clarifying, and streamlining the extant law; vesting standard business practices in law and removing gender-specific references; continuing rights, privileges, and benefits accrued by certain employees; retaining membership in the classified service except under certain circumstances, and amending chapter 96-519, Laws of Florida, as amended, relating to the Civil Service Act; providing a statement of policy; providing a short title; providing mandatory and optional applicability of the act; providing, listing in a single section, and adding definitions for purposes of clarification; describing classes of employees and specifying those to whom the act is applicable; creating a civil service board and providing; listing in a single section, and adding powers and duties to vest in law standard business practices of the district not previously enumerated and deleting the requirement that prospective employees be ranked in accordance with relative qualifications; providing for the establishment and use of initial employment lists and promotional lists and deleting the requirement that employment eligibility lists be canceled after 6 months; requiring that the duration of employment eligibility lists be established by rule; providing for the creation and abolition of positions and the filling of vacancies; providing for a probationary period and tenure; providing for the suspension, demotion, and dismissal of employees; providing for an appeal hearing procedure; providing for disciplinary hearings for certain employees of the administrative office of the Thirteenth Judicial Circuit but paid from funds of the county; providing for recommendation and adoption of classification and pay plans; providing an appropriation for the board; providing for a committee to review extant rules; providing for fiscal responsibility; prohibiting certain activities; providing restrictions on individuals qualifying for elective office; providing for an employee advisory committee; deleting the requirement that the board undergo regularly recurring performance audits mandated by special act; providing criminal penalties for violation of the act; providing for future review of the act; providing severability; repealing chapters 96-519; 97-342, 97-343, 97-349, 97-350, 98-450, 98-481, and 99-415, Laws of Florida, relating to the Civil Service Act and performance audits of the board; providing an effective date.

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- Section 1. SUPERSEDES CHAPTER 85-424, LAWS OF FLORIDA
 - Section 2. STATEMENT OF POLICY
 - Section 3. SHORT TITLE
 - Section 4. APPLICATION
 - Section 5. DEFINITIONS
 - Section 6. CLASSES OF EMPLOYEES
 - Section 7. CREATION OF CIVIL SERVICE BOARD; METHOD OF CONDUCTING
BUSINESS; POWERS AND DUTIES
 - Section 8. INITIAL EMPLOYMENT LISTS; PROMOTIONAL LISTS
 - Section 9. CREATION AND ABOLITION OF POSITIONS; FILLING VACANCIES

- Section 10. PROBATIONARY PERIOD; TENURE
Section 11. SUSPENSION; DEMOTION; DISMISSAL
Section 12. APPEAL HEARING PROCEDURE
Section 13. ADMINISTRATIVE OFFICE OF THE COURTS; HEARING TO REVIEW
ACTION OF DISMISSAL, DEMOTION, OR SUSPENSION
Section 14. RECOMMENDATION AND ADOPTION OF CLASSIFICATION AND
PAY PLANS
Section 15. APPROPRIATION FOR CIVIL SERVICE
Section 16. CREATION OF REVIEW COMMITTEE; TRANSITION
Section 17. FISCAL RESPONSIBILITY
Section 18. PROHIBITED ACTIVITIES
Section 19. RESTRICTION ON INDIVIDUAL QUALIFYING FOR PUBLIC
POLITICAL OFFICE
Section 20. EMPLOYEE ADVISORY COMMITTEE
Section 21. VIOLATION OF ACT; PENALTY
Section 22. RECODIFICATION
Section 23. SEVERABILITY
Section 24. CHAPTERS 85-424, 86-408, 86-409, 87-545, AND 94-407, LAWS OF
FLORIDA, ARE REPEALED.
Section 25. THIS ACT SHALL TAKE EFFECT UPON BECOMING A LAW.
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Be It Enacted by the Legislature of the State of Florida:

Section 19. RESTRICTION ON INDIVIDUAL QUALIFYING FOR PUBLIC
POLITICAL OFFICE

No subordinate personnel need resign upon qualifying for any compensated, elected public office unless such individual is seeking to qualify for a public office which is currently held by an individual who has the authority to appoint, employ, promote, or otherwise supervise that subordinate personnel and who has qualified as a candidate for reelection to that public office. No subordinate personnel of the county administrator need resign upon qualifying for any compensated, elected public office unless such individual is seeking to qualify for a position on the commission in which the incumbent has qualified as a candidate for reelection. However, any such personnel shall take a leave of absence without pay from public employment during the period in which the person is seeking election to public office. A classified employee may serve in an elected public office if service in such elected office does not conflict with the performance of the employee's duties in the classified service or present a conflict of interest between the elected office and the classified position. If a classified employee is elected, the appointing authority where that employee is employed shall determine whether the employee's service in public office conflicts with the performance of his or her duties with the appointing authority. If the employee disagrees with any finding that relates to a conflict with the performance of duties, the employee may file a grievance or appeal under the applicable processes.