

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 866

SPONSOR: Senator Lee

SUBJECT: Candidates; Resign to Run; Subordinate Officers, Deputy Sheriffs, Police Officers

DATE: March 1, 1999 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------|-----------------|-----------|------------------|
| 1. | <u>Fox</u> | <u>Bradshaw</u> | <u>EE</u> | <u>Favorable</u> |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

The bill clarifies Florida’s resign-to-run law by providing that subordinate officers, deputy sheriffs, and police officers who are running for election against their boss must resign effective upon qualifying, and those seeking public office but not challenging their boss must take an unpaid leave of absence while a candidate.

This bill substantially amends section 99.012, Florida Statutes.

II. Present Situation:

Section 99.012, Florida Statutes, commonly referred to as the resign-to-run law, prohibits any person from qualifying as a candidate for more than one public office if the terms of the offices, or any part thereof, run concurrently. In addition, the resign-to-run law requires an elected or appointed officer to irrevocably resign when seeking an elective office which runs concurrently with the term of office which he or she currently holds. This resignation must be submitted 10 days prior to qualifying for office, but typically does not become effective until the date of the election, or thereafter. Thus, the resign-to-run law allows an officer to continue to serve while running for office, although he or she has previously tendered an irrevocable resignation.

However, a deputy sheriff, police officer, or subordinate officer need not resign *unless*: (1) he or she is seeking to qualify for a public office which is currently held by someone with the authority to appoint, employ, promote, or otherwise supervise the officer; *and*, (2) the supervising individual has qualified for reelection to that office. § 99.012(5), F.S. (1997). For example, if a Leon County deputy sheriff were seeking to qualify to run against his or her boss for the position of Leon County Sheriff, the deputy sheriff would be required to resign. Nonetheless, the law provides that a deputy sheriff, police officer, or subordinate officer, upon qualifying for *any* office, *must* take an unpaid leave of absence during the period that he or she is a candidate. § 99.021(5).

Despite the plain language of the statute, the courts and the Florida Division of Elections have interpreted the resign-to-run law to allow a subordinate officer not running against an incumbent supervisor seeking reelection to *choose* between resigning effective at a later date *or* taking an unpaid leave of absence. *Gonzalez v. Vogel*, 616 So.2d 473,475-76 (Fla. 2nd DCA 1993); Div. of Elec., Advisory Opinion DE 95-03 (May 5, 1995).

III. Effect of Proposed Changes:

The bill clarifies the limited resign-to-run exemption for certain officers by providing that such persons who are running against their boss must resign effective upon qualifying, and those not seeking to run against their boss must take an unpaid leave of absence while a candidate.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
