



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 10, 2017

FYI

Ms. Ellen Glasser
2060 Beach Avenue
Atlantic Beach, Florida 32233

Re: DE 17-02 Resign-to-Run – Members of
Appointed Boards or Authorities Serving
Without Salary – § 99.012, Florida Statutes

Dear Ms. Glasser:

This letter responds to your request for an advisory opinion as to whether you are required to resign from your current position on the Atlantic Beach Code Enforcement Board in order to run for mayor in your city. Because you are a candidate proposing to take action relating to the Florida election laws, the Division of Elections is authorized to issue an opinion to you pursuant to section 106.23(2), Florida Statutes.

FACTS

According to your request for advisory opinion, you currently serve as a member of the Atlantic Beach Code Enforcement Board, a position that is appointed by the city commission and for which you do not receive a salary. You ask whether you must resign pursuant to section 99.012, Florida Statutes, in order to run for the office of mayor.

ANALYSIS

Florida's resign-to-run law requires officeholders to resign before seeking other offices in certain situations. *See* § 99.012, Fla. Stat. However, the resign-to-run law specifically states that it does not apply to "[p]ersons serving without salary as members of an appointive board or authority." § 99.012(6)(b), Fla. Stat.

Therefore, because you serve without salary on the Atlantic Beach Code Enforcement Board—an appointive board—you are not required to resign under section 99.012 in order to run

Division of Elections

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for mayor.¹ *Id.*; see *Div. of Elections Op. 83-05* (March 3, 1983) (municipal code enforcement board member not receiving a salary was not required to resign under section 99.012).

SUMMARY

Florida's resign-to-run law does not apply to persons serving without salary as members of an appointive board or authority.

Respectfully,

A handwritten signature in blue ink, appearing to read "M. Matthews", is written over a faint, illegible stamp or watermark.

Maria I. Matthews, Esq.
Director, Division of Elections

¹ Please be aware that article II, section 5(a) of the Florida Constitution prohibits dual office holding. The Division has no authority to interpret the Florida Constitution; therefore, this opinion is confined to the interpretation of Florida's resign-to-run law. See § 106.23(2), Fla. Stat.