

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.)

Date: April 16, 1998 Revised: 04/21/98 \_\_\_\_\_

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

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fox</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

**I. Summary:**

The bill clarifies Florida’s resign-to-run law by requiring all deputy sheriffs, police officers, and subordinate officers seeking to run for public office to take a *mandatory*, unpaid leave of absence upon qualifying, irrespective of whether they are also required to resign in order to run.

This bill substantially amends section 99.012, Florida Statutes.

**II. Present Situation:**

Section 99.012, F.S., 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. 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. s. 99.012(5), F.S. 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. s. 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 requires every deputy sheriff, police officer, or subordinate officer qualifying to run for any public office to take an unpaid leave of absence, whether or not the officer is also required to resign. Thus, any such officer running against an incumbent supervisor seeking reelection must *both* resign and, upon qualifying, take an unpaid leave of absence.

Likewise, any deputy sheriff, police officer, or subordinate officer running for public office but *not* running against an incumbent supervisor seeking reelection *must* take a leave of absence upon qualifying. The bill would prevent such an officer from electing to resign in lieu of taking a leave of absence, a choice currently allowed under judicial and administrative decisions.

### **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:**

#1 by Executive Business, Ethics and Elections:

Provides that a subordinate officer, deputy sheriff, or police officer must resign *effective upon qualifying* if the person is seeking to run for an office which is currently held by the person's supervisor and the supervisor is running for reelection; provides that a subordinate officer, deputy sheriff, or police officer running for any other office must take an unpaid leave of absence upon qualifying. (WITH TITLE AMENDMENT)