

Municipal elections, changing date

Number: INFORMAL

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Mr. James C. Brady
501 Northeast 8th Street
Fort Lauderdale, Florida 33304

Dear Mr. Brady:

This is in response to your request for further comment on the issue addressed in Attorney General Opinion 2003-52, in light of Chapter 75-350, Laws of Florida, a special act relating to municipal elections in Broward County.

Chapter 75-350, Florida Statutes, provides for uniform election dates in Broward County on the second Tuesday in March of the calendar year. Section 100.3605(2), Florida Statutes, states that municipalities may change the dates for qualifying and for the election of members of the governing body of the municipality. Moreover, section 166.021(4), Florida Statutes, recognizes that a municipality may amend its charter to alter election dates. Section 100.3605, Florida Statutes, was created and section 166.021(4), Florida Statutes, was amended by Chapter 95-178, Laws of Florida, to authorize the amendment of a special law or municipal charter for the purpose of changing election dates and qualifying periods for candidates without referendum approval. Moreover, a review of Chapter 95-178, Laws of Florida, reveals that the Legislature specifically provided that "[n]otwithstanding the provisions of any special act enacted prior to or simultaneously with the enactment of this act, section 100.3605, Florida Statutes, is created to read...."

While it is generally accepted that the terms of a special act will prevail over general law, in this instance the Legislature has provided plain language to express its intent. The conclusion reached in Attorney General 2003-52 would not appear to be affected by Chapter 75-230, Laws of Florida.

I trust that these informal comments will assist you in the resolution of this matter.

Sincerely,

Lagran Saunders
Assistant Attorney General

LS/tgk