



Legislation Text

File #: 140186., **Version:** 9

Residency Requirement for Candidates (B)

On July 17, 2014 the City Commission referred a discussion of Residency Requirement for Candidates to the Audit, Finance and Legislative Committee. The referral was subsequently transferred to the Legislative and Organizational Policy Committee.

Article II, Section 2.03 of the City Charter outlines the eligibility requirements for each district and at-large candidate. Sec. 9-10(b). of the Code of Ordinances- Qualifications of candidates for city commission further states eligibility requirements in a case where redistricting has occurred.

Committee members asked legal staff to conduct additional research to include legal precedent or case law, what entity or agency would receive complaints, hear the case, and who has ultimate authority. At the May 4, 2015 committee meeting, City Attorney staff presented case law where a judge ruled that subjective intent to be in a place supported by the facts, such as car registration, where one sleeps, school children are zoned to, among others could constitute residence. In the particular case cited, the residency in question was a place of business. The Judge ruled that there was no evidence that the person lived anywhere else, hence their intent to be in a place constituted residence.

Florida law puts the responsibility on the candidate (not the Supervisor of Elections or the City) to ensure that he/she complies with all state and local elections laws. It appears from staff research that challenges to candidacy can come from another candidate or a voter. Staff has not found legal precedent for the City itself to bring suit against a candidate. There are several resources available to candidates and others who are concerned about a potential violation of election laws, including but not limited to:

The Florida Division of Elections: Provides information about state election laws and issues advisory opinions.
<<http://www.fec.state.fl.us>>

The Florida Elections Commission: Investigates sworn complaints alleging violations of state election laws.
<<http://election.dos.state.fl.us/index.shtml>>

The Court system: Hears legal challenges brought by persons who have standing to challenge a violation of either local or state election laws.

On August 12, 2015, the Committee further discussed this item with Commissioner Warren in attendance. In an effort to more define residency and avoid/prevent issues in future elections, Committee members, and Commissioner Warren discussed a list of criteria to prove residency including drivers' license, utility bills, homestead exemption, credit card bills, school records. Commissioner Warren volunteered to contact other communities to determine their residency qualifications for candidates and bring back to the Committee for future discussion.

At the November 4, 2015 Legislative and Organizational Policy meeting, Commissioner Warren submitted

House Bill 571 Residency of Candidates and Public Officers which was introduced to the legislature in 2014. While the bill was not passed, it did set forth a list of factors that could be used for determining if a candidate meets the residency requirement. The bill explains that there are two alternative interpretations of the term “resident” (page four of the attached bill).

None

The City Commission: 1) Discuss the residency requirement for candidates; 2) Take any action deemed appropriate; and 3) Remove this item from the Legislative and Organization Policy committee referral list.