

Supervisor of elections/ purchasing laws

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Subject:
Supervisor of elections/ purchasing laws

Mr. Daniel L. Dwyer
Attorney
Pasco County Supervisor of Elections
402 East Church Avenue
Post Office Box 4
Dade City, Florida 34297-0004

RE: COUNTY CONSTITUTIONAL OFFICERS--Applicability of state purchasing law

Dear Mr. Dwyer:

This is in response to your request for an opinion on substantially the following question:

Do ss. 287.001-287.052, F.S., contained in Part I of Ch. 287, the State Purchasing Law, apply to local constitutional officers such as the supervisor of elections?

Your letter of inquiry notes that the Supervisor of Elections in Pasco County is concerned about the applicability of ss. 287.001 through 287.052, F.S. to his office.

Section 287.012(1), F.S. 1983 expressly defines "agency" for the purposes of Part I of Ch. 287, F.S., as:

"any of the various *state* officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, *of the executive branch of state government.*" (e.s.)

The terms "agency," "state agency," "state government," as used throughout Part I of Ch. 287, ss. 287.001-287.052, also indicate the scope of application of that statute. See, e.g., ss. 287.012(3); 287.032; 287.042(1)(a), (2), (3), (4), (7), (8), (9), (11), (13), F.S. 1983.

Compare s. 287.042(2)(expressly providing that any county, municipality or other local public agency may purchase commodities under state purchasing agreements and exempting such purchases from the competitive bid requirements otherwise applying to their purchases). See *also* s. 287.042(9) and the first sentence of subsection (2) of s. 287.042, both of which indicate that counties are not required to comply with the requirements of the State Purchasing Law; AGO 78-19 (concluding that the Broward County Housing Authority is not a state agency within the purview of the State Purchasing Law relating to purchase of commodities); AGO's 77-140, 77-22, 75-56; *and see* s. 129.202(2)(relating to the budget of the supervisor of elections, and

providing that "the independence of the supervisor of elections shall be preserved concerning the purchase of supplies and equipment").

In light of the statutory definition contained in s. 287.012(1), F.S., and the provisions of s. 287.042, I must conclude that ss. 287.001-287.052, F.S., contained in Part I of Ch. 287, do not apply to constitutional county officers such as the supervisor of elections.

In summary, ss. 287.001-287.052, F.S., contained in Part I of Ch. 287, F.S., the State Purchasing Law, do not apply to constitutional county officers such as the supervisor of elections.

Sincerely,

Jim Smith
Attorney General

Prepared by:

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