Filing fees in nonpartisan election

Number: AGO 75-292

Date: November 10, 1998

Subject:
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ELECTIONS--FILING FEE FOR CANDIDATES IN NONPARTISAN ELECTION

To: James C. Watkins, Clerk, Circuit Court, Tavares

Prepared by: Michael M. Parrish, Assistant Attorney General

QUESTION:

What qualifying fees, if any, must be paid by candidates who qualify to run in the nonpartisan elections for superintendent of schools and district school board member in Lake County?

SUMMARY:

Unless and until otherwise clarified by the courts or the Legislature, candidates in the nonpartisan elections for superintendent of schools and district school board member in Lake County should pay a filing fee of 3 percent of the annual salary of the office they seek.

By way of introduction, it should be noted that Ch. 73-519, Laws of Florida, provided for nonpartisan elections in Lake County for the offices of superintendent of schools and district school board member starting in 1976, subject to approval of the electors at the 1974 general election. You advise in your letter that the provisions of Ch. 73-519 were approved by the voters at the 1974 general election.

Chapter 73-519, *supra*, contains no provisions regarding the qualifying fees to be paid by candidates in the aforementioned nonpartisan elections, nor is there any provision in the general election law which deals specifically with the qualifying fees to be paid by such candidates. However, an examination of the provisions of the general election laws dealing with qualification fees [s. 99.092(1), F. S., as amended by Ch. 75-247, Laws of Florida; ss. 99.152, 99.153, and 105.031(3), F. S.] reveals a legislative scheme to impose qualification fees on *all* candidates for all state and county offices. Accordingly, absent a specific legislative provision exempting them from paying such a fee, I am of the view that the candidates about which you inquire -- like all other candidates for election to state or county office -- must pay qualifying fees. *Cf*. AGO 070-100.

With respect to the amount of such fees, it should be noted that candidates in the nonpartisan elections about which you inquire are for all practical purposes in a status analogous to that of independent candidates. Accordingly, I am of the view, unless and until otherwise clarified by the courts or the Legislature, that such candidates should pay the "filing fee" which is required of

independent candidates by ss. 99.152 and 99.153, F. S. (1974 Supp.). Section 99.092(1), F. S., as amended by Ch. 75-247, Laws of Florida, states: "The amount of the *filing fee* is 3 percent of the annual salary of the office." (Emphasis supplied.) Section 99.092(1) also requires that candidates for *nomination* in a primary election pay a "committee assessment" of up to 2 percent of the annual salary of the office they seek, but such "committee assessment" is not required of independent candidates and I am of the view that it should not be required of candidates in the nonpartisan elections about which you inquire.