Special district residency requirements

Number: AGO 74-104

Date: November 04, 1998

Subject:
Special district residency requirements

RE: PUBLIC OFFICERS--SPECIAL DISTRICTS RESIDENCY REQUIREMENTS--EFFECT OF BOARD MEMBER RELOCATING RESIDENCE OUTSIDE OF DISTRICT

To: Willard Howatt, Attorney for Anastasia Mosquito Control District, St. Augustine

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

Is a member of the Anastasia Mosquito Control District disqualified from serving the remainder of his term when he changes his residence to a location outside the district?

SUMMARY:

A member of the Anastasia Mosquito Control District who has changed his residence to a location outside the district with the intent to become a permanent legal resident of the area in which his new residence is located is disqualified to serve as a member of the district's board of commissioners.

Under the general law relating to mosquito control districts, Ch. 388, F. S., and the special acts relating particularly to the Anastasia Mosquito Control District (Ch. 61-2745, Laws of Florida, as amended by Ch. 73-609, id.), the members of the board of commissioners of the district are required to be registered electors residing within the boundaries of the district. Thus, if the commissioner changed his residence to a location outside the mosquito control district with the intent to establish a permanent residence in the new location, he would be disqualified to serve as a member of the district's board of commissioners. However, as noted in AGO 073-193, the question of whether an incumbent is a legal resident of the district from which he was elected

". . . is a mixed question of law and fact to be settled or determined from the facts of each particular case. The mere intention to acquire a new domicile, unaccompanied by actual removal, or the fact that the party moved his residence without the intention to acquire a new domicile per se proves nothing."

If the district commissioner has changed his voter registration to a new precinct or done other acts indicating an intent to become a legal resident of an area outside the district, his change of residence would create a vacancy in the office under s. 114.01, F.S., providing that an office shall be "deemed vacant" when, among others, the incumbent ceases to be an inhabitant of the "state, district, county, town or city for which he shall have been elected or appointed." Attorney

General Opinions 072-269, 073-52, and 073-193.