

1981 WL 158038 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 5, 1981

\*1 Mr. Joseph H. Earle, Jr.  
Greenville County Attorney  
14-A Courthouse Annex  
Greenville, South Carolina 29601

Dear Joe:

I am in receipt of your recent letter in which you raised various questions concerning petition requirements. You have stated that these questions have arisen in regard to a petition that is being circulated seeking to repeal a county ordinance.

The South Carolina law only provides specific laws that govern petition requirements for nominating petitions for individuals to an office. However, by prior opinion our Office has construed these provisions to also govern petitions arising under home rule. I believe that these provisions would also govern any petition filed in this State; however, I wanted to alert you to this underlying assumption as the following opinion is based upon the assumption that the nominating petition requirements, being the only provisions that govern petition procedures, would also govern a petition such as you have set out in your letter.

Specifically you have raised the following questions:

First, must each petitioner have registered to vote at least thirty (30) days prior to the final date for filing the petition (which we have concluded to be November 7, 1981)?

Yes. South Carolina Code of Laws, 1976, Section 7-11-70 requires a petition to ‘. . . contain the signatures of at least five (5%) percent of the qualified registered electors . . .’ (emphasis added). See also South Carolina Code of Laws, 1976, Sections 7-11-71; and 7-11-80(3)(c) which requires the signature to be that of a ‘voter’. A qualified elector would be a person who is registered and eligible to vote. A registration card is not valid for thirty (30) days after it is issued. A person who has not had a registration card for thirty (30) days would not be a qualified elector and therefore would not be eligible to vote. South Carolina Code of Laws, 1976, Sections 7-5-220; 7-5-150; 1963-64 Att’y Gen. Ops. No. 1632, p. 61.

The petition requirements as set out in Section 7-11-80(3)(c) require the person signing the petition to list his voter registration number; therefore, it should be possible to check the date that the registration certificate was issued. Of course, in all practicality, as there is not a date indicating when the person signed the petition, the only date that could be checked is whether or not a person is registered thirty (30) days before the date the petition was filed.

Second, for counting purposes, is it satisfactory to use a method whereunder the signatures are counted at intervals, such as one in ten or one in seven? If it is a satisfactory method, Mr. Timmons would like to know the opinion of your office as to a reasonable ratio for counting purposes—that is to say, whether one in ten, one in seven, or other.

In your letter you refer to a letter of September 22, 1978 that Jim Holly wrote to Mr. Ellisor concerning this question. In that letter he stated that a random count would be acceptable. He further stated that the procedure adopted should be decided upon by the election authorities. As our Office has previously taken the position that we should not decide what percentage would be acceptable, we would continue to defer to the election authorities to determine what percentage would constitute a proper sampling.

\*2 Third, he would like to know whether or not it is necessary that each separate petition or separate signature, or both, bear a date.

The petition requirements as set out in Section 7-11-80 only require the date of the election to be on the petition.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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