

1978 WL 35131 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 22, 1978

***1 Re: Petitions**

Mr. James B. Ellisor
Executive Director
South Carolina Election Commission
2221 Devine Street
Post Office Box 5987
Columbia, South Carolina 29250

Dear Mr. Ellisor:

You have recently asked the opinion of this Office on the following questions:

1. Are the signatures on a petition for nomination as a candidate which are submitted to the appropriate election commission presumed under law to be the valid signatures of qualified registered electors, or is it necessary for the signatures and the other required information to be checked?
2. If it is necessary to check the signatures and other required information, what procedure should be used?

[Section 7-11-70 of the Code of Laws of South Carolina](#), 1976, provides that nominating petitions must contain certain numbers of the signatures of 'qualified registered electors' and that such petitions shall be 'certified' to the State Election Commission, county election, or the municipal clerk depending on the elective office sought. The form for such petitions is provided in Section 7-11-80. Section 7-13-350 sets forth the dates by which such petitions must be 'certified' to the appropriate election authority. Other than these statutes, there is nothing more in Title 7 which provides any significant guidance with regard to your questions. Therefore, it will be necessary to apply certain rules of statutory construction to delineate the intent of the General Assembly. West's South Carolina Digest, Vol. 17, 'Statutes,' § 181(1).

The use of the word 'certified' in the cited statutes indicates that the General Assembly intended that the election authorities would do more than merely receive the petitions. The meaning of this word demonstrates that the General Assembly intended that the petitions would be submitted to or filed with the appropriate election authority which would then have the duty to undertake some procedure to confirm that the petitions contain the required number of signatures of qualified registered electors. Black's Law Dictionary (Fourth Ed., 1968); Webster's New World Dictionary (Second Ed., 1976); [Purdy v. Moise](#), 223 S.C. 298, 75 S.E.2d 605 (1953). Any other construction would render meaningless the requirements prescribed by the cited sections. [Martin v. Ellisor](#), 266 S.C. 377, 223 S.E.2d 415 (1976); [Beaufort County v. Jasper County](#), 220 S.C. 469, 68 S.E.2d 421 (1952).

Despite the legislative intent expressed in the cited sections, the General Assembly did not provide for any specific procedure for reviewing petitions. Thus, the General Assembly must have intended that the election authorities, and most importantly the State Election Commission, would have discretion to adopt appropriate procedures to execute this duty. [Abel v. Bell](#), 220 S.C. 1, 91 S.E.2d 548 (1956); [Davidson v. Eastern Fire and Casualty Ins. Co.](#), 245 S.C. 472, 141 S.E.2d 135 (1965); 2 Am.Jur.2d, 'Administrative Law,' §§ 191, 233 to 255. As we understand it, the State Election Commission and the various county commissions have customarily utilized several procedures with regard to petitions of which one has been a random sampling or percentage check of the pages or the signatures and information thereon. Because our

research of the local and general law has not revealed any authorities to the contrary, the reviewing of the petitions on a reliable random or percentage basis appears to be a reasonable procedure within the discretion of the various election authorities. Furthermore, it appears that the individual election authorities could adopt any other reliable and reasonable procedure to execute this statutory duty. [Drew v. Lawrimore](#), 380 F.2d 479 (1966); 2 Am.Jur.2d, supra.

*2 Therefore, based on the foregoing reasons, it is the opinion of this Office that the petitions filed with or submitted to an election authority are not presumed to be valid, and that the election authority must undertake some reasonable and reliable procedure to confirm that the petitions comply with the statutory requirements. However, the form of the procedure is within the discretion of the election authority.

Sincerely yours,

James M. Holly
Staff Attorney

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