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OPINION NUMBER 2002-0044

Kimberly Wooten Rosenberg
Deputy Executive Counsel to the Governor
P.O. Box 94004
Baton Rouge, LA 70804-9005

Dear Ms. Rosenberg:

24-A ELECTIONS – Recall

LSA-R.S. 18:3

LSA-R.S. 18:402(F)

LSA-R.S. 18:1300.2

LSA-R.S. 18:1300.3

LSA-R.S. 18:1300.7

The recall petition for James E. Prince, Chief of Police, Village of Baskin, Parish of Franklin, does contain the required number of signatures (40% of the voting area) for a recall election. Special election to be held in accordance with the Election Code.

We are in receipt of your request for an Attorney General's opinion with regard to the recall petition directed toward James E. Prince, Chief of Police, Village of Baskin, Parish of Franklin. The registrar of voters certified the recall petition on January 22, 2002 and has presented same to the governor. Therefore, you have requested an opinion as to whether the governor should issue a proclamation ordering an election to be held for the purpose of voting on the question of recall for the office of Chief of Police, Village of Baskin, held by James E. Prince.

With regard to recall petitions, LSA-R.S. 18:1300.3(C) requires the registrar to send the original petition to the governor immediately after certification. Section 1300.7 requires the governor to issue a proclamation, within fifteen days after the petition is presented to him, to order an election to be held for the purpose of voting on the question of recall of the officer *if the required number of registered voters sign the petition for recall.*

LSA-R.S. 18:1300.3 requires the registrar to certify to (1) the number of names on the petition; (2) the number of qualified electors of the voting area within the parish whose handwritten signatures appear on the petition; (3) the total number of electors of the voting area within the parish as of the date of the filing of the petition with the secretary of state; and to indicate on the petition the number of names who are not electors of the voting area.

The registrar has certified that the recall petition contains 81 names; that the recall petition contains 71 signatures of qualified electors of the voting area within the parish whose signatures appear on the petition; and that the total number of electors of the voting area within the parish as of the date of the filing of the petition with the Secretary of State was 157.

LSA-R.S. 18:1300.2(B) requires a recall petition to be "[s]igned by a number of the electors of the voting area as will in number equal not less than thirty-three and one-

third percent of the number of the total electors of the voting area wherein and for which a recall election is petitioned; however, where fewer than one thousand qualified electors reside within the voting area, the petition shall be signed through the handwritten signatures by not less than forty percent of said electors." The registrar certified that the total number of voters registered in the voting area is 157. Therefore, in calculating forty percent [40%] of 157, a total of 62.8 valid signatures is required on the recall petition for the governor to issue a proclamation for a special election.

The registrar certified a total of 71 valid signatures on the recall petition, which total does meet the required forty percent. Therefore, it is the opinion of this office that the validated signatures on the recall petition are sufficient in number for the governor to issue a proclamation ordering a special election on the question of recall for James E. Prince, Chief of Police, Village of Baskin, Parish of Franklin. The special election shall be held on the next available date specified in R.S. 18:402(F).

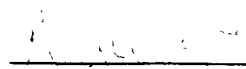
We are also in receipt of a comment from Mr. Prince, wherein he alleges that the petition does not comply with R.S. 18:3 in that some of the names on the petition are not eligible to participate because they live outside the city limits but are giving addresses of parents and friends and that there are a lot of post office boxes and not physical addresses on the petition. R.S. 18:3 provides for the requirements of a petition, such as the one at issue here, and it is specific as to when a registrar may not certify a signature. The law states, "[t]he registrar shall not include any person who has not affixed to the petition his signature and the address at which he is registered to vote or any person whose name does not appear on the registrar's roll of electors." Additionally, R.S. 18:104 provides the application form for registering to vote, which includes information with respect to the applicants "[p]lace of residence, including street or apartment number or both, municipality (if any), and if a rural address, sufficient information, in addition to route and post box number, to identify the precinct of residence, and mailing address." We point out for the benefit of Mr. Prince that recall elections may be contested in accordance with the Election Code, R.S. 18:1401 *et seq.*, and more specifically, the certification of a recall petition may be contested within fifteen (15) days of the governor's issuance of a proclamation ordering the recall election. R.S. 18:1405(F).

Ms. Kimberly Wooten Rosenberg
OPINION NUMBER 2002-0044
PAGE -3-

If we can be of further assistance in this matter, please do not hesitate to contact our office.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL



ANGIE ROGERS LAPLACE
Assistant Attorney General

RPI/ARL:mjb
Enclosures

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cc: Hon. James E. Prince
Registrar, Edna M. Hatton
Hon. W. Fox McKeithen
Hon. Suzanne H. Terrell