

May 26, 2005
OPINION 05-0233

Ms. Wanda J. Edwards
Livingston Parish Council
519 Florida Avenue, SW
Denham Springs, LA 70726

55 Intoxicating Liquors Local Option
R.S. 26:582 et seq.
Police Jury may only call local option election regarding the
sale of alcoholic beverages upon the petition of twenty-five
percent of the qualified electorate.

Dear Ms. Edwards:

You have asked this office to advise whether the Livingston Parish Council may legally and properly call an election to provide for the sale of alcoholic beverages in the absence of a petition submitted by the electorate pursuant to R.S. 26:582. We respond in the negative.

R.S. 26:582 states is entitled "petition for election" and states:

- A. (1) Upon petition of not less than twenty-five percent of the qualified electors residing in any ward, election district, or any incorporated municipality, the governing authority shall order a referendum election to be held to determine whether or not the business of selling alcoholic beverages shall be conducted and licensed therein.
- (2) A copy of the petition shall be submitted to the registrar on the date the first signature is affixed on the petition for the purpose of determining the total number of qualified voters residing in each ward, election district, or each incorporated municipality in which such petition will be circulated.
- B. In the case of such an election held on a ward, election district, or municipal basis the election shall be separately called and held, and the result separately binding for each incorporated municipality, and for the unincorporated balance of the ward or election district.
- C. No such election shall be held for the subdivision more often than once in every two years.

The parish council may only call a local option election upon the petition of not less than twenty-five percent of the qualified electors. There is no authority for the parish council to call an election on its own initiative without a petition first being presented. See Attorney General Opinion 77-821, copy attached. As the court stated in Perot vs. Police

Jury of Natchitoches Parish, 22 So.2d 666 (La. 1945) on the issue of local option election:

The police jury is merely the instrumentality designed by law through which the will of the voters of the parish may be ascertained by means of a parish-wide election. It is the mandatory duty of the police jury to call the election when it has been requested to do so by petitions signed by the requisite number of qualified voters of the parish and properly certified by the Registrar of Voters. It is also its mandatory duty to adopt an ordinance giving effect to the result of the election. The ordinance results from the mandate of the people and not from any attempt on the part of the police jury to exercise governmental powers over the municipality. Perot, supra, at page 668.

There is no authority for the parish council to call for an election on its own accord. Thus, the Livingston Parish Council may only proceed to call a local option election upon the submission of the petition of twenty-five percent of the qualified electorate as required by R.S. 26:582.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:
Date Released: May 26, 2005

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL