



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 15-0177

Mr. Thomas Enright
Executive Counsel
Office of the Governor
P. O. Box 94004
Baton Rouge, LA 70804-9004

24-A ELECTIONS – Recall

La. R.S. 18:3
La. R.S. 18:101
La. R.S. 18:1300.1 *et seq.*

The "*Petition to Recall Ronnell "Bruce" Broussard, Chief of Police, Town of Washington, Parish of St. Landry*" meets the legal requirements for the governor to issue a proclamation ordering an election to be held for the purposes of voting on the question of the recall.

Dear Mr. Enright:

You have requested that this office advise you as to whether the recall petition with supporting documents, directed toward "*Petition to Recall Ronnell "Bruce" Broussard, Chief of Police, Town of Washington, Parish of St. Landry*" meets the statutory requirements for a recall petition, as set forth in La. R.S. 18:1300.1, *et seq.* The supporting documents submitted with your request include, the signed petitions in support of recalling Chief Broussard and the letter from the registrar of voters certifying the number of valid signatures.

First, La. R.S. 18:1300.2(B) states:

All signatures on recall petitions shall be handwritten. This petition shall be signed by a number of the electors of the voting area as will (*sic*) 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 by not less than forty percent of said electors.

According to the Registrar Voters, there are less than 1000 qualified electors in the Town of Washington; therefore, pursuant to La. R.S. 18:1300.2(B), the recall petition must be signed by not less than forty (40) percent of the total electors within the town. According to the "*Petition to Recall Ronnell "Bruce" Broussard, Chief of Police, Town of Washington, Parish of St. Landry*" Registrar of Voters for the Parish of St. Landry Cheryl Milburn represents that there are eight hundred six (806) electors in the voting area as of the filing of the petition with the Secretary of State on August 29, 2015.

Forty (40) percent of eight hundred six (806) would require at least three hundred twenty-two (322) valid signatures on the petition to satisfy the statutory requirements for a recall election.

Registrar Milburn submitted her certification containing three hundred sixty-nine (369) signatures on the petition; however, a total of thirteen (13) signatures were ultimately rejected. The petition ultimately contains three hundred fifty-six (356) valid signatures, which is greater than the three hundred twenty-two (322) valid signatures necessary for the governor to issue a proclamation calling for a special election.

The statutory requirements for a petition to recall an elected official are primarily listed in La. R.S. 18:1300.2(D). This statute provides in pertinent part:

Each elector, at the time of signing the petition, shall enter his address and the date on which he signed beside or underneath his signature; however, if a person is unable to write, as provided in La. R.S. 18:1300.4, the two witnesses shall date their signatures. In addition, each petition shall be in compliance with the provisions of La. R.S. 18:3. In determining the number of qualified electors who signed the petition in any parish, the registrar of voters shall not count any signature which is undated or bears a date prior to the date on which the copy of the petition initially was filed with the secretary of state or after the date of the submission of the petition to the registrar except as otherwise provided in La. R.S. 18:1300.3(B). The registrar shall not receive or certify a petition submitted to him for certification unless it is submitted to him timely.

In a similar vein, La. R.S. 18:3(A), which governs petitions submitted to the registrar of voters, states:

Notwithstanding any other provision of law to the contrary, every petition submitted to a registrar of voters for certification shall contain the following information:

- (1) The handwritten signature of the voter who is signing the petition....
- (2) The date the voter signed the petition.
- (3) The signer's ward/district/precinct and date of birth.
- (4) The address at which the signer is registered to vote, including municipal number, apartment number, rural route, and box number.
- (5) Name of the signer either typed or legibly written.

- (6) Name of the person who witnessed and who obtained the signature.
- (7) Date on which the person witnessed and obtained the signature.

Louisiana courts have determined that the recall is a harsh remedy; therefore, the provisions which govern the recall process must be strictly construed.¹

La. R.S. 18:101(B) sets forth the requirements used in determining a "qualified elector" in the area, providing:

For purposes of the laws governing voter registration and voting, "resident" means a citizen who resides in this state and in the parish, municipality, if any, and precinct in which he offers to register and vote, with an intention to reside there indefinitely. If a citizen resides at more than one place in the state with an intention to reside there indefinitely, he may register and vote only at one of the places at which he resides. If a person claims a homestead exemption, pursuant to Article VII, Section 20 of the Constitution of Louisiana, on one of the residences, he shall register and vote in the precinct in which that residence is located. For purposes of voter registration and voting, the residence of a married woman shall be determined in the same manner as is required for any other citizen. A citizen of this state shall not be or remain registered or vote in more than one place of residence at any one time.

Registrar Milburn is thereby required to utilize La. R.S. 18:3(A), La. R.S. 18:101(B), and La. R.S. 18:1300.2(D) in determining the number of qualified electors in the voting area.

As this office has opined previously, in La. Atty. Gen. Op. No. 04-0265, the registrar is required to review the signature, date, and address of the signatory before certifying said signature and cannot include any person whose name does not appear on the voter roll, whose address is not affixed to the petition, and/or whose signature is undated or bears an incorrect date. La. R.S. 18:3, La. R.S. 18:1300.2 and La. R.S. 18:1300.3.

According to La. R.S. 18:1300.3(A), the registrar is required to ascertain if the petitioners are registered to vote in the district or municipality. The registrar is also required to certify on the recall petition "[t]he number of qualified electors of the voting area within the parish whose handwritten signatures appear on the petition" and "[e]ach registrar also shall indicate on the petition the names

¹ La. R.S. 18:1300.1 *et seq.*; *Young v. Sanders*, 38,412 (La.App. 2 Cir. 4/7/04) 870 So.2d 1126; *Bradford v. Board of Supervisors of Elections*, 128 So.2d 468 (La.App. 3 Cir. 1961).

appearing thereon who are not electors of the voting area." The registrar is required to verify the genuineness of signatures on recall petitions, as has been done for many years by registrars throughout the state, by virtue of the legal advice from this office. See La. Atty. Gen Op. No. 04-0265.

The registrar should continue to make a reasonable comparison of a voter's signature on the petition to the voter's signature on the roll of electors and not count a signature which is not found to be a reasonable match. See La. Atty. Gen. Op. Nos. 04-0265 and 91-413.

As stated in La. Atty. Gen. Op. No. 91-413, "the registrar should not be required to be an expert in observing signatures, however, it is the opinion of this office that the registrar shall make a reasonable identification of a voter's signature prior to certifying such name on a recall petition."

In this case, the petition and supporting documentation have been fully reviewed by our office and we find compliance with the requirements set forth in La. R.S. 18:3. The "*Petition to Recall Ronnell "Bruce" Broussard, Chief of Police, Town of Washington, Parish of St. Landry*" contains requisite columns for the date of birth, date of signature, precinct of registration, residence address, including the town, name of the voter typed or legibly written, name of the person who witnessed and obtained signature, and the date the signature was witnessed and obtained.

This office finds that the "*Petition to Recall Ronnell "Bruce" Broussard, Chief of Police, Town of Washington, Parish of St. Landry*" as verified by Registrar Milburn, under the laws and standards explained above, does have a sufficient number of valid signatures from qualified electors in the voting area. The petition does meet the statutory requirements necessary for the governor to issue a proclamation ordering a recall election in this matter.

We hope this opinion addresses all of your concerns. If we can be of further assistance, please advise.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: 
Richard L. McGimsey
Assistant Attorney General

RLM/mdj