

DIRECTIVE 2008-76

September 3, 2008

TO: COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, DEPUTY DIRECTORS

RE: State Issue Petition – Proposing a Partial Referendum of Sub. H.B. 545

A petition was filed in the Secretary of State's office on August 31, 2008, to place on the statewide election ballot a partial referendum of Sub. H.B. 545.

Enclosed for review and certification by your office are those part petitions that were circulated in your county. You must examine each part petition in accordance with the enclosed instructions. Please carefully read this directive and the accompanying instructions **before** you start your examination of the part petitions and signatures.

Reminders

- Under R.C. 3503.06, a circulator of a state issue petition must be a resident – not necessarily an elector – of Ohio. Such a circulator cannot sign another circulator's petition, because that circulator is not an elector. If the circulator's address provided on a part petition is not an Ohio address, you must invalidate that part petition, and none of the signatures on that part petition may be counted as valid.
- Because Ohio law bars persons who have been convicted of felony criminal offenses from circulating petitions (see R.C. 2961.01 and 2967.17), you must invalidate any part petition which was circulated by a person who has been convicted of a felony under the laws of this state, any other state or the United States. To verify whether a circulator has been convicted of a felony, you may seek the assistance of your county clerk of courts.
- Any part of a state issue petition is invalid if the board determines that one individual has affixed more than one signature to the part petition, *unless* the individual who signed the name of another elector did so as that elector's duly-appointed *attorney in fact* in accordance with R.C. 3501.382, or *unless* a circulator who is an Ohio elector signed his or her own petition, in which case just the circulator's signature is invalid as a signer of the petition.
- Please note that if a circulator signed his or her own part petition just the circulator's signature is invalid as a signer of the petition.
- In addition to verifying the validity of the individual signatures, you also must verify the validity of each part petition. Check each part petition to determine that the circulator's statement on the last page of the part petition has been properly completed. A part petition is invalid if the circulator's statement is not completed as required by law.
- Please note the simple rule that, if the number written by the circulator on the circulator's statement at the end of the part petition is *less than* the number of uncrossed out signatures on the part petition, the entire part petition is invalid. This is because the board cannot discern which signature was not witnessed by the circulator. It is wise to check the circulator's statement, i.e., the validity of the petition, *before* comparing signatures with those in your records to determine the number of valid signatures.

Protests

It continues to be prudent for boards to anticipate that their findings may be protested. Therefore, as soon as you complete (1) your certification of the part petitions and (2) the attached certification form, **please photocopy the original part petitions marked with your notations for your files.** In the event that a protest is filed, you will then have a record of your individual and collective findings to review with your legal counsel.

When a protest has been filed, please notify the Elections Division of the Secretary of State's office immediately by faxing a copy of the protest to Melanie Poole, Elections Administration Officer, at 614-752-4360. Please keep the elections attorney assigned to your county informed of the progress of the matter.

Returning the Petitions

You must determine the validity and sufficiency of these part petitions and return the originals to the Secretary of State's office, together with your certification, **no later than September 15, 2008.**

Important - Since no person may sign a petition more than once, it is imperative that boards maintain the names of those persons who signed the original part petitions in order to properly verify the signatures on any potential supplemental part petitions. It may be prudent to create a database list of the petition signers (both valid and invalid signatures), creating the following fields:

- 1. last name***
- 2. first name and middle initial***
- 3. address***
- 4. city, village or township***
- 5. date of signature***

Please return your completed certification form and all the part petitions to this office in person or by using a trackable, third-party delivery method, such as certified U.S. Mail, U.S. Post Office Express Mail, UPS or FedEx.

If you have any questions concerning the handling of part petitions or the procedures set forth in this directive, please contact the elections attorney assigned to your county at (614) 466-2585. Thank you for your prompt assistance.

Sincerely,

Jennifer Brunner