

DE 02-06 - April 30, 2002

**Petition Method of Qualifying in Newly Created Districts
§106.23(2), 99.095, 99.096, 99.0955, 105.035, Florida Statutes**

To: The Honorable Theresa LePore, Supervisor of Elections, Palm Beach County, Post Office Box 22309, West Palm Beach, Florida 33416

Prepared by: Division of Elections

Dear Ms. LePore:

This is in response to your request for an advisory opinion regarding the number of petitions required for your county commission and school board candidates who are qualifying by the petition method. You are the Supervisor of Elections for Palm Beach County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you. You have asked essentially the two following questions:

1. Our County Commission and School Board redistricted their boundaries in December, 2001 - both have single member districts. The normal procedure is to use the number of registered voters in the district as of the last General Election. However, the districts in November 2000 are different than the current districts. What number do I use in determining the number of alternative method petitions that candidates will need by district?
2. The School Board went to single member districts in March, 2000, but only defined the three districts that were up for election in 2000. The remaining four districts remained county-wide until their redistricting in December, 2001. What numbers do I use for the school board candidates?

Although the two situations you have described are not identical, the same answer applies to both situations.

Sections 99.095, 99.0955, 99.096, and 105.035, F.S., provide for an alternative method for qualifying as a candidate. In lieu of paying the qualifying fee and the party assessment, if required, a candidate may obtain signatures of a number of registered voters in the district equal to at least 1% of the total number of registered voters of the district represented by the office sought, as of the last general election. As addressed in DE 87-19, the signature requirements for single-member districts are based upon the number of registered voters within that single-member district, not the entire county.

The practical problem to this issue is that once new boundaries and precincts have been established after the prior general election, it is arduous to determine the number of voters representing the new district. If the new districts have been drawn to coincide with the previous precinct boundaries, you should be able to determine that number. However, if any of the district lines vary from the previous precinct boundaries, the number of voters in that district is difficult, if not impossible, to reconstruct.

During years of apportionment, a similar situation exists as it relates to candidates for Representative in Congress, state Senator, and state Representative. The Legislature has addressed this issue in section 99.09651, Florida Statutes, by providing that candidates for these offices obtain signatures based on the ideal population of the state divided by the number of districts for the office. For example, there are forty state Senate districts. So the ideal population would be divided by forty and the petition signatures would be 1% of this figure. Unfortunately, the Legislature has not provided any guidance with respect to other offices for which the district boundaries of the office may change.

If the new district boundaries coincide with the precinct lines that were in existence in 2000, you should be able to calculate the number of voters that were in the newly created districts as of the 2000 general election. That number is the number you use as the basis for the petition requirements. However, if the district lines vary from the previous districts and you are not able to determine the number of voters that were in the newly created districts as of the 2000 general election, your only option is a system similar to the one established by the Legislature. Take the total number of registered voters in the entire county as of the 2000 general election and divide that number by the number of districts established - in this case 7. Base the 1% petition requirement on that number.

SUMMARY

If you are able to determine the number of registered voters in the newly created districts as of the last preceding general election, you should base the petitioning requirements on those numbers. However, if there is no way to determine the number of voters in the newly created districts as of the last general election, calculate the petition requirements by taking the number of registered voters in the entire county and dividing that number by the number of districts.

Sincerely,

L. Clayton Roberts
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