

DE 80-03 - March 1, 1980

Declaratory Statement

To: W.A. (Gus) Thomas, Supervisor of Elections, St. Johns County

Prepared by: Division of Elections

Petitioner, W.A. (Gus) Thomas, Supervisor of Elections, St. Johns County, has filed a petition for declaratory statement seeking a determination of whether the St. Augustine City Auditor, Clerk, or his equivalent can strike names from a recall petition pursuant to Section 100.361(6)(g), Florida Statutes, while the petition is, pursuant Section 100.361(1)(d), Florida Statutes, in the custody of the Supervisor of Elections prior to the petition being verified.

The above-cited statutory provision has a direct impact on the petitioner thereby entitling him to a declaratory statement.

The recalling of a municipal official pursuant to Section 100.361(1)(d), Florida Statutes, is a two-step process involving two separate verifications by the Supervisor of Elections, one pursuant to Section 100.361(1)(d) and one pursuant to Section 100.36(1)(h). There is a specific provision allowing an elector who has signed "counterpart" of a recall petition in the second phase in the second phase to have his name withdrawn from the petition; there is no such provision for the first phase.

It is, therefore, the opinion of the Division that an elector may not remove his name from a petition filed pursuant Section 100.361(1)(d). See Newton v. Martina, 371 So., 2nd 351.