

DIRECTIVE 2008-94

October 3, 2008

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

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

A supplemental petition was filed in the Secretary of State's office on October 1, 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. R.C. 3519.16 requires boards to examine the petitions and to return the petitions along with the report of the results of the examination within five days.

Reminders

- As no person may sign a statewide issue petition more than once, it is imperative that boards determine whether any person who signed the original referendum petitions (Directive 2008-76) has signed the supplemental petition. **Any signature appearing on the supplemental petition which also appeared on the original petition must be invalidated.**
- Under R.C. 3503.06(B)(1), a circulator of a state issue petition must be a resident – although 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(B) and 2967.17(B)(2)), you must invalidate any part petition that 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.
- If the board determines that one individual has affixed more than one signature to the part petition, then the entire part petition must be invalidated, *unless* the individual signed as another elector's duly-appointed *attorney in fact* in accordance with R.C. 3501.382, or *unless* a circulator signed his or her own part petition, in which case just the circulator's signature is invalid as a signer of the petition not the entire part 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 signatures were 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 October 10, 2008**.

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