

**ADVISORY 2009-08**

July 20, 2009

To: All County Boards of Elections

RE: Investigation pursuant to R.C. 3501.05(N)(1)

During the recent signature verification process conducted by Ohio Boards of Elections on the Ohio Jobs and Growth Plan constitutional amendment petition, attorneys representing a racetrack owner opposed to the constitutional amendment raised questions concerning alleged fraud committed by some petition circulators. Attorneys for and against the constitutional amendment may have contacted your board concerning these allegations.

The Secretary of State's office provided boards of elections with instructions for verifying the validity of signatures and circulator statements on the petition in Directive 2009-10 issued June 29, 2009, and thereafter provided further clarification regarding issues relating to circulators in Advisory 2009-06 issued July 8, 2009, and in Advisory 2009-07 issued July 9, 2009. Under Article II Section 1g of the Ohio Constitution and R.C. 3501.05(K), the Secretary of State's role in the statewide petition process is limited to determining the overall sufficiency of the petition by calculating the number of valid signatures determined by Ohio boards of elections.

While the Secretary of State has no legal authority to determine the validity of signatures on petitions or to invalidate part petitions, the Secretary of State has the independent statutory authority under R.C. 3501.05(N)(1) to "investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting attorney, or both, for prosecution." Consequently, I have directed my legal staff to investigate alleged violations of Ohio election law, fraud, and irregularities related to the Ohio Jobs and Growth Plan petition, which, if appearing to exist, are intended to be referred for criminal prosecution. Elections Counsel Joshua Kimsey will be overseeing the investigation. I respectfully request your cooperation as we engage in this process if information or documents are needed.

Further, if your board of elections or your county prosecutor has already commenced or completed an investigation regarding the petition in question, we would appreciate knowing about it so as to work cooperatively and without redundancy. Finally, please report the results of any such investigation when completed to the Secretary of State's office pursuant to R.C. 3501.11(J) and Directive 2008-96.

Thank you in advance for your cooperation. If you have any questions, please contact the elections attorney assigned to your county at 614-466-2585.

Sincerely,

Jennifer Brunner