

6080 Lubiano



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

October 28, 1996

Senator Glenn F. McConnell  
Vice Chairman, Joint Delegation  
Charleston County Legislative Delegation  
Post Office Box 142  
Columbia, South Carolina 29211

Dear Senator McConnell:

You have asked this Office whether the nominating petition for the office of commissioner of a public service district may contain the signatures of "inactive" voters. You have also inquired as to whether the State Election Commission may decertify such a candidate for public service district commissioner upon learning that the candidate's petition lacks the appropriate signatures.

South Carolina law allows a candidate for the office of commissioner of a public service district to be nominated, and placed on the general election ballot, if such candidate's nominating petition contains the signatures of "not less than two hundred fifty qualified electors of the district . . . or five percent of the total number of electors of the district, whichever is the lessor, if such petitions are otherwise in compliance with [the] chapter." S.C. Code Ann. §7-11-71 (Law. Co-op. Supp. 1995). Thus, the statute requires a candidate for public service district commissioner to obtain no more than two hundred fifty (250) signatures of qualified electors. Once the requisite signatures are obtained, the petition must be verified by the local county board of voter registration. Every signature on a petition requiring five hundred (500) signatures or less must be checked for validity against the signatures of the voters on the original applications for registration. S.C. Code Ann. §7-11-85 (Law. Co-op. Supp. 1995).

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The term "qualified elector," as used in §7-11-71, means:

any person whose name is contained on the active roster of voters maintained by the State Election Commission and whose name has not been removed from the roster for any of the reasons named in items (2) and (3) of subsection (C) of §7-3-20 and who possesses a valid registration certificate.

S.C. Code Ann. §7-1-20 (Law Co-op. 1976 & Supp. 1995) (emphasis added). Section 7-3-20 mandates that the executive director of the State Election Commission shall delete from the roster of qualified electors the name of "any elector who has failed to vote in each of two consecutive State-wide general elections" and any other election held during the interval between the two general elections. S.C. Code Ann. §7-3-20 (C)(3) (Law Co-op. 1976); see also, Op. Atty. Gen., dated September 1, 1981 (persons deleted for failure to vote are considered "inactive" voters). Therefore, by definition of the term "qualified elector," the nominating petition for the office of public service district commissioner cannot contain the signature of an inactive voter.

When interpreting any statute, the predominate purpose is to ascertain legislative intent. See, State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). "The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation." S.C. Op. Atty. Gen. (Feb. 7, 1996). Generally, there is no right to impose or look for another meaning where a word is plain, unambiguous and conveys clear and definite meaning. Wynn v. Doe, 255 S.C. 509, 180 S.E.2d 95 (1971). The words "shall" and "must" ordinarily indicate a mandatory duty. See, S.C. Dept. of Highways and Pub. Transp. v. Dickinson, 288 S.C. 189, 341 S.E.2d 134 (1986); S.C. Op. Atty. Gen. (Feb. 7, 1996) (citing Merchants Credit Serv. v. Chouteau Co. Bank, 114 P.2d 1074 (Mont. 1941); 73 Am Jur 2d, Statutes §22 (1981)). Therefore, based upon the definition of the term "qualified elector," the State Election Commission has no authority or discretion to certify a candidate for the general election ballot whose nominating petition does not contain the requisite number of signatures of active voters.

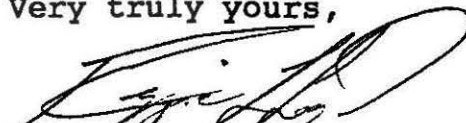
This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions referenced herein. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

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Should you have any other questions regarding this matter,  
please do not hesitate to call our Office.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "Reginald I. Lloyd", written in a cursive style.

Reginald I. Lloyd  
Assistant Attorney General

RIL/fg