

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 50

ELECTIONS - Ballot measures, verification of addresses on petitions;  
ELECTIONS - Duty of election administrator regarding ballot measures;  
INITIATIVE AND REFERENDUM - Addresses on petitions;  
INITIATIVE AND REFERENDUM - Duty of election administrator;  
INITIATIVE AND REFERENDUM - Petition, verification of signatures, addresses;  
MONTANA CODE ANNOTATED - Sections 13-27-103, 13-27-204, 13-27-205, 13-27-206, 13-27-207, 13-27-303.

HELD: A signature of a properly registered voter on a petition for a ballot measure should not be disqualified if the address on the petition is not the same as the address on the voter registry card.

11 February 1982

The Honorable Jim Waltermire  
Secretary of State  
State Capitol  
Helena, Montana 59620

Dear Mr. Waltermire:

You have requested my opinion concerning whether a signature on a petition for a ballot measure should be

OPINIONS OF THE ATTORNEY GENERAL

disqualified if the address on the petition is not the same as the address on the voter's registration card.

The question has arisen because of recent legislative amendments to the procedures for processing petitions for ballot measures, 1981 Mont. Laws, ch. 488. For example, section 13-27-204(l)(e), MCA, regarding initiative petitions, provides:

Each person must sign his/her name and address in substantially the same manner as on his/her voter registry card or the signature will not be counted. [Emphasis added.]

The reference to the address being substantially the same as on the voter registry card is new language. Virtually identical amendments were made to section 13-27-205, MCA, concerning petitions for referendum; section 13-27-206, MCA, concerning petitions for an initiative for a constitutional convention; and section 13-27-207, MCA, concerning petitions for an initiative for a constitutional amendment.

Our society has become increasingly mobile and many people have moved to new addresses, often within the same county, since they registered to vote. You have advised that approximately one-third to one-half of the signatures in some counties would not be counted if the election administrators require the addresses to be identical.

Where questions of statutory interpretation are presented, the intent of the Legislature controls. Hammill v. Young, 168 Mont. 81, 540 P.2d 971 (1975). Legislative intent must be ascertained from an examination of all of the statutes on one subject matter as a whole, not just the wording of one particular section. Vita-Rich Dairy Inc. v. Department of Business Regulation, 170 Mont. 341, 533 P.2d 980, 984 (1976).

Significantly, the language in question here applies only to the suggested form of a petition. Section 13-27-204(l), MCA, provides by way of introduction to the provision in question:

The following is substantially the form for a petition calling for a vote to enact a law by the initiative. [Emphasis added.]

OPINIONS OF THE ATTORNEY GENERAL

The section then provides an example to be followed for the form of the petition. Similar introductory paragraphs are contained in the statutes cited above for other ballot measures. Thus, the language in question is more in the nature of a procedural recommendation than a substantive requirement to be followed by an election administrator in approving petition signatures.

Two other provisions contain substantive requirements for verification of signatures. No amendments were made to these sections last session. Section 13-27-103, MCA, regarding the sufficiency of petition signatures, provides that signatures may not be counted unless signed in substantially the same manner as on the voter registry card. That statute does not contain a reference to address. Section 13-27-303, MCA, outlines the procedure the election administrator must follow to verify petition signatures. The administrator is required to check each name to determine if the individual is registered to vote. The administrator is then required to compare signatures at random to determine if the signature is signed in substantially the same manner as the voter registry card. Again, the election administrator is not required to check the address of the petition signer. By reading the statutes as a whole, it is clear that the Legislature did not intend to add a new substantive requirement that the address on the petition be the same as the address on the voter's registration card.

In State ex rel. Miller v. Murray, 36 St. Rptr. 1713, 1716, 600 P.2d 1174 (1979), it was held:

Addresses aid the clerk and recorders in the certification process. The only purpose of the address is to aid in the identification of the signer so that the clerk can then locate the signer's voter registration for the purpose of certification.

See also Graham v. Board of Examiners, 125 Mont. 419, 426, 239 P.2d 283 (1952). Those cases held in essence that the requirement for an address was merely ancillary to the substantive requirement of checking that the signature was that of a duly registered voter. Minor, technical defects or mistakes on a petition for a ballot measure should not be used to invalidate the measure. Cf. Graham v. Board of Examiners, supra.

OPINIONS OF THE ATTORNEY GENERAL

One additional statutory provision has influenced my decision in rendering this opinion. The Legislature has established procedures to allow registered voters the opportunity to vote in their old precinct if they have moved to a new precinct and failed to update the registry card. See §§ 13-2-512 and 13-2-514, MCA. Those provisions allow an individual to vote even though he or she is no longer a resident of that precinct. The voter's registration then must be updated at the time of voting. To impose the address requirement for petition signatures would create a situation where electors would be eligible to vote, even though they had moved to a new precinct, but would be ineligible to sign a petition for a ballot measure. Statutory construction should not lead to contrary or absurd results if reasonable construction will avoid it. State ex rel. Ronish v. School District No. 1 For Fergus County, 136 Mont. 453, 348 P.2d 797 (1960).

THEREFORE, IT IS MY OPINION:

A signature of a properly registered voter on a petition for a ballot measure should not be disqualified if the address on the petition is not the same as the address on the voter registry card.

Very truly yours,

MIKE GREELY  
Attorney General