

Local Option, Petition For, Sufficiency Of.

A petition for local option, under Section 3180, Political Code, must contain at least one-third of the qualified voters for members of the legislative assembly, whose names appear upon the last assessment roll of the county. It is then sufficient to authorize the commissioners to act thereon. This section does not prohibit other persons who are residents of the county, and qualified to vote for members of the legislature, from signing such petition.

Helena, Montana, Nov. 4, 1905.

Hon. C. B. Calkins, County Attorney, Hamilton, Montana.

Dear Sir:—Your letter of the 30 ult., requesting an opinion of this office construing section 3180, Political Code, received.

The language of this section is somewhat ambiguous. However, in our opinion such petition must contain at least one-third of the qualified voters for members of the legislative assembly whose names appear upon the last assessment roll of the county. When a petition is presented containing the names of such qualified voters equal to one-third of the qualified voters whose names appear upon the last assessment roll, it is sufficient to authorize the county commissioners to act thereon. However, this section does not prohibit other persons who are residents of the county and qualified to vote for members of the legislature from signing such petition, and it would be advisable to have as many of the qualified voters of the county as could be procured, and whose names do not appear upon the last assessment roll, to sign such petition, and thus avoid any possible construction which might be placed upon such section to the effect that such petition must require one-third of the qualified voters of the county, regardless of whether their names appear upon the last assessment roll or not.

In answer to your second question, as to whether a petition presented under said section 3180 can be considered by the board at a special meeting, you are advised that it can, provided such special meeting was duly called in the manner provided for in section 4215, Political Code. The call for the special meeting to distinctly state the purposes for which such meeting was called and the business to be transacted.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.