



OFFICE OF THE SECRETARY OF STATE

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P.O. Box 12697
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July 9, 1982

Mr. Robert Parten
Chief Deputy County Clerk
Tarrant County
Fort Worth, Texas 76102

Election Law Opinion DAD-36
Re: Lost or destroyed copies
of petition seeking a
local option liquor
election.

Dear Mr. Parten:

This opinion is in response to your letter of June 17, 1982.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982).

In your letter you pose the following question:

A qualified petitioner for a Local Option Liquor Election was issued ten petitions. During the period of time in which the necessary signatures were being gathered to gather the necessary signatures, two of the petitions were destroyed. Does the fact that all petitions issued cannot be returned invalidate the remaining petitions if the number of signatures certified are in excess of the number required by law to call the election?

Nothing in the Alcoholic Beverage Code requires that the loss of copies of a petition must invalidate the entire effort to call a local option liquor election.

An opinion of the Texas Attorney General's Office construing the earlier law from which the present Alcoholic Beverage Code was derived concluded that the precautionary measures now codified as Tex. Alco. Bev. Code Ann. §§ 251.03-251.09 (Vernon 1978) were intended by the legislature to prevent fraud and imposition upon the commissioner's court and

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people in calling and conducting a local option liquor election. Tex. Att'y Gen. Op. No. O-6364 (1945).

In my opinion the loss or destruction of two copies of a petition seeking a local option election will not defeat the intent of the Alcoholic Beverage Code and will not invalidate the effort to call a local option liquor election.

The above cited Attorney General Opinion suggested that, in order that all copies of the petition be accounted for, the records should show that two copies of the petition have been lost or destroyed. The opinion further suggested that the party (or, under current law, one of the parties) making application for the petition should make an affidavit showing what became of the lost or destroyed copies of the petition.

This is a reasonable suggestion and I hereby incorporate it into this election law opinion.

SUMMARY

The loss of two copies, out of ten originally issued, of a petition seeking a local option liquor election will not invalidate the petition. It is suggested that, in order to account for all copies of the effort to call a local option liquor election, the records of the petition show that two copies were lost or destroyed and that one of the parties making application for the petition should make an affidavit stating what became of the lost or destroyed copies.

Sincerely,



David A. Dean
Secretary of State

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APPROVED:
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