



OFFICE OF THE SECRETARY OF STATE

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September 8, 1982

Mr. Edward J. Wheeler
Acting City Attorney
City of Pasadena
P. O. Box 672
Pasadena, Texas 77501

Election Law Opinion DAD-58
Re: Local option status under
the Bingo Enabling Act

Dear Mr. Wheeler:

In your letter of August 17, 1982, you posed the following question:

On August 14, 1982, elections were held to vote for or against the proposition, "Legalizing Bingo Games for Charitable Purposes" as authorized by the Bingo Enabling Act in the City of Pasadena and Justice of the Peace Precinct 2, Harris County, Texas. Justice of the Peace Precinct 2, overlaps portions of the City of Pasadena, but the majority of the precinct lies outside the city. Neither political subdivision had a prior bingo status.

The result of the election in the City of Pasadena was against legalizing bingo games for charitable purposes and the result of the election in Precinct 2, Harris County, Texas, was for legalizing bingo games for charitable purposes.

The question submitted for determination is, "What effect, if any, does the unsuccessful legalization election in the City of Pasadena have on those portions of the Justice of the Peace precinct, which legalized bingo, lying within the City of Pasadena?"

This official election law opinion is rendered by me as chief election officer of the state in accordance with V.A.T.S. Election Code, art. 1.03, subd. 1.

The Bingo Enabling Act (the Act), Vernon's Ann. Civ. St. art. 179d, §9(a), provides:

In a legalization election, if a majority of the qualified voters voting on the question vote in favor of legalization, the holding of bingo games as authorized by this Act is legalized throughout the political subdivision effective the 10th day after the date the result of the election is officially declared, except that the legalization does not apply to any part of the political subdivision for which Section 10 of this Act requires a contrary status.

§10(c) of the Act provides, in part:

To the extent that the results of local option elections held by different types of political subdivisions conflict with regard to the same territory, the relative dates of the elections are of no consequence and the following rules apply:
(1) the status of an area as determined by a municipal election prevails over a contrary status as determined by a justice precinct or county election. . .

The voters of justice of the peace precinct 2 have voted in favor of legalization of bingo games and have, therefore, established a local option status which will prevail throughout the precinct except in a municipality within or overlapping the precinct which has adopted a contrary status.

§9(c) of the Act provides:

If a majority of the qualified voters voting on the question in a legalization election do not favor legalization, or if a majority of the qualified voters voting on the question in a prohibitory election do not favor prohibition, the election has no effect on the status under this Act of the political subdivision in which the election is held.

The language of §9(c) makes it clear that a negative vote in a local option bingo election establishes no local option status in the subdivision in which the election is held. Therefore, such a vote can have no prohibitory effect. In order for a political subdivision to establish a local option status there must be an affirmative vote in either a legalization or prohibitory election.

Since the City of Pasadena has no local option status "as determined by a municipal election" the status of justice of the peace precinct 2 will prevail over the territory common to the justice of the peace precinct and the City of Pasadena.

SUMMARY

A negative vote in a local option bingo election establishes no local option status in the political subdivision in which the election is held.

Since the City of Pasadena has no local option status as determined by a municipal election, the status of justice of the peace precinct 2 will prevail in the territory common to the justice of the peace precinct and the city.

Sincerely,



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Secretary of State

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APPROVED:
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Election Law Opinion DAD-58

Request from Mr. Edward J. Wheeler, Pasadena, concerning the determination of local option status under the Bingo Enabling Act.

SUMMARY

A negative vote in a local option bingo election establishes no local option status in the political subdivision in which the election is held.

Since the City of Pasadena has no local option status as determined by a municipal election, the status of justice of the peace precinct 2 will prevail in the territory common to the justice of the peace precinct and the city.