



**THE ATTORNEY GENERAL
OF TEXAS**

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December 11, 1973

The Honorable Tom Hanna
Criminal District Attorney
P. O. Box 2553
Beaumont, Texas 77704

Opinion No. H- 182

Re: Meaning of "general election"
in § 5(b), Article 5154C-1,
V. T. C. S., the Fire and Police
Employee Relations Act.

Dear Mr. Hanna:

Your request for an opinion concerns whether the term "general election" as used in the Fire and Police Employee Relations Act, Art. 5154c-1, V. T. C. S., (Acts 1973, 63rd Leg., ch. 81, p. 151) refers to the November election or whether it refers to the last election held in a particular city. Section 5(b) deals primarily with the necessary requisites for the Act to be adopted by a city, town, or political subdivision. This section states in part:

"Upon receiving a petition signed by the lesser of five percent or 20,000 of the qualified voters voting in the last preceding general election in such city, town, or political subdivision, the governing body of such city, town or political subdivision shall hold an election within 60 days after said petition has been filed with such governing body." (emphasis added)

The relevance of the distinction lies in the number of persons voting in the applicable election, and therefore, the number of signatures required to petition a local option election under the statute.

In Greenwood v. City of El Paso, 186 S. W. 2d 1015, 1016 (Tex. Civ. App., El Paso, 1945, no writ), the court considered the meaning of "general election" in Art. 3162, V. T. C. S., which provided:

"Independent candidates for office at a county, city or town election may have their names printed upon the official ballot on application to the county judge, if for a county office, or to the mayor, if for a city or town office, such application being in the same form and subject to the same requirements herein prescribed for applications to be made to the Secretary of State in case of State or district independent nomination; provided, that a petition of five per cent of the entire vote cast in such county, city or town at the last general election shall be required for such nomination." (emphasis added)

The court's analysis proceeded as follows:

"The question posed is: does the term 'last general election' as applied to this case mean the City Election . . . or the General Election of the 7th day of November In determining this question, the intention of the legislature must be the sole guide. . . ."

"The words 'general election' would, standing alone, mean the state-wide election held in pursuance of general law every two years, which election is for the selection of state, district, county, and precinct offices. This is a popular meaning of the term. It is a fundamental rule of statutory construction that unless some good reason appears to the contrary, words used in the statute would be construed by the courts in accordance with their popular and generally understood meaning. . . ."

* * *

"A general election is held in November every two years in each city and county of the state. True, no city officials are chosen at such election, but the voters voting in the city at such general election are ordinarily qualified voters in the next city election. It was a matter of judgment

for the legislature as to whether the standard of the last city election should be used or that of the last general election. In our opinion, it shows [chose] the latter standard. "

The court noted statutes in which the legislature demonstrably chose to state "general city or town election" or "regular city election," and distinguished the meaning of those terms from that of "general election" as used in the Fire and Police Employee Relations Act.

Article 1269m, V. T. C. S. , creating the firemen's and policemen's civil service in cities over 10,000, conditioned the local option election upon petition of ten per cent of the number voting in "the preceding municipal election" in § 27(a).

Additionally, Art. 2.01, V. T. C. S. , Texas Election Code, provides in part:

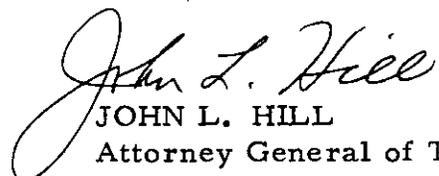
"A general election shall be held on the first Tuesday after the first Monday in November, A. D. 1964, and every two years thereafter, . . . "(emphasis added)

It is our opinion that "general election" in Art. 5154c-1 § 5(b) refers to the statewide November election held every two years and not to the municipal election.

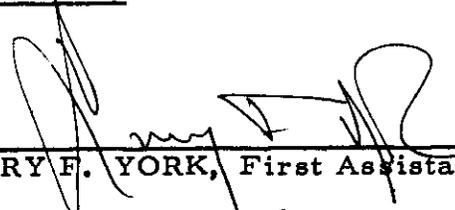
S U M M A R Y

Under Art. 5154c-1, § 5(b) (Acts 1973, 63rd. Leg. , ch. 81, p. 151), "general election" refers to the November election and not to the municipal election.

Yours very truly,


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APPROVED:



LARRY F. YORK, First Assistant



DAVID M. KENDALL, Chairman
Opinion Committee