

July 22, 2009
OPINION 08-0017

24 ELECTIONS – Conduct of Primaries and General

LSA-R.S. 18:511(B)
LSA-R.S. 18:512 (B)

Honorable Ben Morris
Mayor
City of Slidell
P. O. Box 828
Slidell, LA 70459

If, after the close of the qualifying period for candidates in a primary election, the number of candidates for public office does not exceed the number of persons to be elected to the office, the candidate for that office is declared elected by the people, and the name shall not appear on the ballot in either the primary or the general election.

Dear Mayor Morris:

Since the candidate received no opposition, which implies unanimous election, then he is to be considered to have received the most votes, even though his name was not on the ballot and had no votes cast toward his election.

You have requested of this Office an Opinion to determine which at-large council member would serve as mayor should the mayor's office become vacant as provided for in your Home Rule Charter.

You supplied this Office with a copy of Section 3-04 (Vacancies) of The City of Slidell Home Rule Charter. Specific to your request is Paragraph C:

C. If a vacancy in the office of mayor occurs six (6) months or more prior to the expiration of the term of office, the council member at large receiving the greatest number of votes shall serve as mayor until the office is filled by the vote of the qualified electors voting in a special election called by the council for that purpose, which election shall be held not later than sixty (60) days after the vacancy occurred. A vacancy in the office of mayor occurring less than six (6) months prior to the expiration of the term of office shall be filled by the council member receiving the greatest number of votes and shall serve as mayor for the remainder of the term. The council member serving as mayor shall not have a vote on the council or otherwise participate in council activities as a member thereof while serving as mayor.

You informed this office that one council member-at large was elected without opposition and another council member at-large prevailed in a contested election by receiving 2,664 votes in a recently held special election to fill an at-large seat that was left vacant by death.

La. R.S. 18:511 (B) essentially states that if, after the close of the qualifying period for candidates in a primary election, the number of candidates for public office does not exceed the number of persons to be elected to the office, the candidate for that office is declared elected by the people, and the name shall not appear on the ballot in either the primary or the general election.

Since the candidate received no opposition, which implies unanimous election, then he is to be considered to have received the most votes, even though his name was not on the ballot and had no votes cast toward his election.

Hoping this answers your concern, if we can be of further assistance, please do not hesitate to contact our office.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: _____
WILLIAM P. BRYAN, III
Assistant Attorney General

JDC/WPB, III/sfj

SYLLABUS

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Since the candidate received no opposition, which implies unanimous election, then he is to be considered to have received the most votes, even though his name was not on the ballot and had no votes cast toward his election.

The Honorable Ben Morris
Mayor
The City of Slidell
P. O. Box 828
Slidell, LA 70459

DATE RECEIVED:

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William P. Bryan, III
Assistant Attorney General