



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

March 8, 1996

The Honorable Mark W. Stiles
Chair
Calendars Committee
The Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 96-026

Re: Whether, pursuant to the Water Code, a petition for the dissolution of a drainage district may be withdrawn after being presented to a commissioners court, but before the commissioners court have ordered an election on the issue
(ID# 38663)

Dear Representative Stiles:

You have asked this office whether a petition requesting an election to dissolve a drainage district, for which the statutory deposit has been paid and which the county clerk has verified contains the requisite number of taxpayer signatures, may be withdrawn by the citizen who has presented it before the commissioners court orders an election on the issue.

The facts, as you present them, are as follows. On February 20, 1996, a citizen presented such a petition at a meeting of the Jefferson County Commissioners Court. The petition, as required by section 56.292 of the Water Code, contained the signatures of fifty resident freehold taxpayers. The petitioner paid the \$200 cash deposit required by section 56.293 of the Water Code. The commissioners court placed the matter of ordering the election on its March 4, 1996, agenda. Prior to the March 4th meeting, the citizen who had presented the petition sought to withdraw it in a telephone conversation with the Jefferson County Judge. The commissioners court tabled the matter at its March 4th meeting in order to seek counsel as to whether it had authority to permit such a withdrawal.

We conclude that the commissioners court does not have such authority. Section 56.292 of the Water Code reads in relevant part,

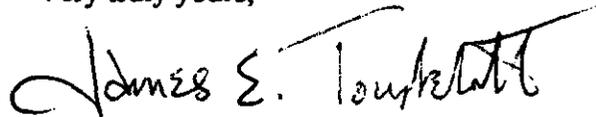
At a regular meeting of the commissioners court, any person may present a petition [signed by the requisite number of taxpayers] requesting the dissolution of the district, and the commissioners court *shall* order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved. [Emphasis added].

The language of the statute is mandatory, not precatory. The commissioners court has no discretion in the matter, once the petition has been presented to it, the fee paid, and the requisite number of signatures verified. Moreover, we find no authority in the statute for the withdrawal of such a petition. Accordingly, the petition having been presented to the commissioners court on February 20, 1996, the commissioners court must order the election.

SUMMARY

A petition for the dissolution of a drainage district bearing the requisite number of taxpayer signatures having been presented to it, a commissioners court has no authority to permit the withdrawal of the petition and must call the required election under section 56.292 of the Water Code.

Very truly yours,



James E. Tourtelott
Assistant Attorney General
Opinion Committee