

The Virgin Islands Consortium

Citizens Who Were Not Registered To Vote Prior To Nov. 6 Election Are By Law Barred From Participating In Runoff Election, A.G. Opines

Politics / **Published On November 11, 2018 11:00 PM /**

Staff **November 11, 2018**



U.S. Virgin Islands citizens eager to participate in the runoff election, who were not registered to vote prior to the November 6, General Election, are barred by law from doing so, Attorney General Claude Walker has said in a recently released opinion.

On November 9, Board of Election members met to discuss matters pertaining to the runoff election, as no candidate was able to collect the necessary 50 plus 1 percent needed to clinch victory. Since the election, Virgin Islanders have become even more interested in this year's gubernatorial race, and many who were not registered have

expressed a desire to vote during the runoff.

During the meeting, Board Chairman Arturo Watlington said he was in favor of allowing citizens in the St. Thomas-St. John District to register to vote in the runoff election. But several board members, including Raymond Williams, objected, contending that such a move would be contrary to law.

The meeting ended without consensus on the matter, and Mr. Watlington said the St. Thomas-St. John District would move forward with the registration. Because of this, the attorney general's intervention was sought, and in his opinion, the A.G. was clear about his office's interpretation of the law.

"A run-off election is a continuation of a general election and only those individuals who were registered and qualified to vote in the November 6th election are qualified to vote in the runoff," Mr. Walker opined.

He said 18 V.I.C. § 1 provides two useful definitions to be used in construing the local election statutes. First, "election" means any general or primary election, unless otherwise specified or indicated as in the term 'primaries and elections', where the intention is to refer to primary elections and general elections." Second, "run-off election" means an election that allows for the selection between the choices receiving the first and second largest number of votes cast in the general election."

Based upon the plain language of the two definitions, it is apparent that the term "run-off election" is included in the definition of general "election," according to the opinion. Because a "run-off election" is an election, and it only applies in situations involving a general election, it must follow that a "run off election" is intended to be a continuation of the general election, the A.G. opined. Based upon this interpretation, only those eligible voters who were qualified to vote in the November 6, 2018, general election shall be qualified to vote in the upcoming run-off election, the Mr. Walker concluded in the "discussion" segment of his opinion.

He said this interpretation is supported by "virtually every other U.S. jurisdiction." For example, in Georgia, O.C.G.A. § 21-2-501, provides, "Only the electors entitled to vote in the first primary or election shall be entitled to vote in any run-off primary or election resulting therefrom; provided, the run-off primary or election shall be a continuation of the first primary or election, and only those votes cast for the candidates receiving the two highest numbers of votes in the first primary or election shall be counted."

Mr. Walker concluded, "The scheduled run-off election is a continuation of the general election that was held on November 6th and, pursuant to V.I.C. § 94(c), the Board must not register new voters between today and five days after the November 20th run-off election occurs."

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